JUDICIARY OF
ENGLAND AND WALES

R -v- Adam Johnson

Bradford Crown Court

Sentencing Remarks of HHJ Rose

24th March 2016

On the 10th February, on the first day of your trial you entered guilty pleas to one Count of meeting a child following sexual grooming, contrary to s15 of the Sexual Offences Act 2003 and one Count of Sexual Activity with a Child contrary to s9 of that Act. Your trial then took place on two further Counts of Sexual Activity with a Child at the end of which the jury found you guilty on one Count and not guilty on the second Count. I adjourned sentence so that further enquiries could be made by both the Prosecution and the Defence. I have received written submissions from the Prosecution and Defence and I have today heard further submissions by Counsel. I have reviewed documents – a Victim Personal Statement by M dated 8th March 2016, a statement by M's mother L of 21st March 2016 and a report by the Child and Adolescent Psychotherapeutic Counsellor Joanne Rubbi concerning the impact of your offending on M. I have also read a psychiatric report by Dr Hopley, a neuropsychology report by Dr Moss and a report by a Forensic Psychosexual Therapist Victoria Appleyard concerning you, Adam Johnson. I have heard evidence from Dr Hopley, to whom I am grateful and I have read a letter

written by your parents. I have taken into account all that I have read and to the helpful submissions I have heard.

M was a Sunderland fan. She was the holder of a season ticket and would attend every home game, often waiting after the match in the car park at the Stadium of Light to take a photograph or just to see you. You were her favourite player. She had a crush on you, that is to say, a young teenager's adoration of a successful celebrity.

M celebrated her 15th birthday only in November 2014 and that much was known to you when you began communicating with her at the end of December 2014. To put it another way, she had only just turned 15 when you began to groom her because, as you were to admit in your evidence in this trial, you found her sexually attractive and wanted to have some sexual intimacy with her, even though you knew her to be only 15.

The offence of meeting a child following sexual grooming was committed by you between 30th December 2014 and 26th February 2015. That offence reflects you communicating with M over a prolonged period of time, principally by messages sent to her by Whatsapp and Snapchat messages. By your plea you admit that you did so because you intended to engage in sexual activity with M knowing that she was under the age of 16. The starting date is the time at which you accepted M's request to become friends with her on Facebook and you then began to exchange messages with her, there being more than 800 such messages exchanged in that period of a little under two months. The end date is important in that it demonstrates that you continued in your grooming of this girl even after you had engaged in sexual activity with her.

M asked you for a signed Sunderland shirt. You agreed to provide her with one. The messages between the end of December and 10th January 2015 were directed towards arranging a meeting where you could give her this shirt.

Although largely innocuous, your messages to M were quite clear inasmuch as you wanted no one to know that you and she were exchanging such messages and, indeed you insisted that she delete all Whatsapp messages. You asked her to find a place to meet which would be private and secluded so that no one would see you in her company. If the only object in meeting her was for you to sign a football shirt for her, there was no reason for such secrecy and, indeed, no reason why you could not have met her at her home or at least in the presence of an adult. I must conclude that these initial exchanges were all part of a grooming process, to win M's confidence and to ensure that your relationship with her would remain secret. Whilst the messages were, as I say largely innocent, on the 16th January when you were arranging to meet the following day, you were insisting that the meeting place be private adding "Better when it's dark" and asking M "You gunna be forward with me" and suggesting that she would not be shy if she drank alcohol. When M said that alcohol would take away the nerves you responded by saying "The nerves for what?" When M said the nerves she has meeting people you said "Thought you meant something else. Or do I need to show you." In your evidence at your trial you suggested that you were being 'flirtatious', but the Prosecution have suggested that you were testing the waters with M and seeing how far you could go in your manner of speaking to her, as part of the process of grooming her for sexual activity.

You met with M on 17th January, in your car, in the dark and in a relatively quiet place behind the Chinese takeaway in Wingate. Although this meeting was for the purposes of giving M the signed shirt, which you did, it is a proper inference to draw that you were that evening satisfying yourself that the location was suitable for what you intended to happen at a future meeting. It was at that meeting that M told you about the car park which, although near to the takeaway was down a narrow road and would be more secluded and more private, especially after dark, although I do not deal with your case on the basis that that car park was in fact subsequently used.

Within an hour of M leaving you, you were messaging her again. You were, again asking her about being forward with you and saying you would be

forward with her were you to meet again. It was you who then said that you expected a thank you kiss because she owed you, for the shirt and that you would come and get a kiss from her. Over the next several days you continued to exchange messages until, on 29th January you asked M whether you would only get a kiss from her and expressing the hope that you would get a little bit more including, as you put it "a bit of feeling." This was a continuation of the grooming process and a clear indication that you intended to engage in sexual activity with M which would be more than just a kiss.

It was the following day that you met again at the same place. You turned your car around so that no one nearby would be able to see in. You kissed her, as you accept, with tongues. That is the first offence of Sexual Activity with a Child. But you then went on to penetrate her vagina with your fingers. In total you penetrated her three times and these acts are the offence of Sexual Activity with a Child of which you were convicted by the jury.

It is in my view important to stress that the offence of grooming on Count 1, which you admitted, was a continuing offence and, although you had already kissed and engaged in the more serious acts of sexual activity on the evening of 30th January you were not satisfied with that. Within an hour of leaving M you sent her a message saying "it was class, just wanted to get your jeans off", "think we need to go in the back next time" and "I will last ten seconds though." These messages clearly indicate that you wanted further sexual activity with M and that your intention was to engage in sexual intercourse with her. Within a couple of days you were asking her for a 'rude' photograph, and the meaning of that is evident because when M sent you a photograph of herself in a bikini you replied by asking her to provide a photograph 'with the bikini off."

On 3rd February, at a time when you said in evidence that you were at Sunderland's training ground you searched the Internet for information as to the age of consent for sexual activity. The only proper inference I can draw is that you wished to know the age at which it would be legal for you to engage in sexual intercourse with M because that is what you wanted and intended to

do. Having read the three reports submitted on your behalf it is quite clear that the events with which the Court is concerned took place at a time when you were engaging frequently in sexual intercourse with multiple partners. The Psychosexual Therapist Victoria Appleyard refers to you displaying compulsive sexual behaviour and having a sexual preoccupation. You said to the psychiatrist Dr Philip Hopley "I treated [M] like any of the girls I met. I put her age out of my mind. I was sexually interested but she was just another girl, another opportunity. She was attractive enough. Another one to get with." The only possible inference which can be drawn from this is that you viewed M as just another female with whom you were intent on engaging in sexual intercourse. It has been suggested that you were careless or reckless as regards her age. That I do not accept. You made a deliberate decision to engage in sexual activity with this young girl and to ignore the fact that she was only 15, no doubt in the hope and expectation that you would get away with it because both she and you would delete all WhatsApp messages referring to your contact and because you thought you could rely on her to tell no one, just as you had asked.

The messaging and indeed the grooming continued for some three weeks into February 2015. A third meeting was arranged for 25th February and it is clear that M anticipated that there would be sexual activity, possibly including sexual intercourse. However, by now you had set up a Snapchat account, solely for the use of yourself and M and so it is that the messages in the days prior to that meeting are lost, because Snapchat messages disappear after 24 hours. You were deliberate in seeking to switch to Snapchat because you knew that such messages could not be seen or retrieved thereafter. There are therefore no messages available between 22nd February and that meeting. We do know that you called off that meeting at the last minute, after M had travelled to the meeting place. Why you cancelled that meeting is not clear. You told M that it was because you were unable to come up with an excuse to Stacey Flounders to leave the house without disclosing that you were doing so in order to engage in sexual activity with M. It was shortly after that that the police became involved and you were arrested.

When you were arrested you lied to Stacey Flounders about M. Whilst in interview you admitted kissing M, you lied about the nature and extent of your contact with her and you lied then and throughout the months which followed about the level of your sexual activity with her. You had every opportunity to enter guilty pleas to the matters you finally admitted to the Court but you chose not to do so, and one consequence of that is that M was regarded as a liar, by her peers and by the football supporters who would chant abuse about her. Little wonder that by the time of this trial she had, in her words endured a year of abuse, of being called a liar and other more graphic insults, and was deeply upset by what you had done to her and by her treatment, such that she required counselling and such that she reached the lowest ebb after she gave evidence. I shall return to the psychological impact of this case upon M shortly. That impact demonstrates why your offending against M provides a very good illustration of the inability of a 15 year old girl to deal with the emotional consequences of engaging in sexual activity with a man some 12 years her senior.

You did not enter your guilty pleas to the first two Counts on the Indictment until the day of trial. You are entitled to no more than a 10% reduction in sentence as a result of those late pleas. You did not admit the offence of which you were convicted and, whilst I do not, of course increase the sentence on that Count because of your denial of guilt, I am unable to reduce it at all. It has been submitted on your behalf that you admitted meeting and kissing M in interview and expressed remorse. Such admissions must be set against your unwillingness to enter any guilty pleas until the day of trial, for whatever reason and such claims to remorse against your denial of the most serious offence for which you have no remorse. M was obliged to give evidence, as were other young people called as witnesses by the Prosecution and by the Defence. M was quite obviously deeply distressed by the ordeal at the time and thereafter.

The offences you have committed and the sentences you must serve will undoubtedly have a significant impact on you. You have had your contracts with Sunderland and Adidas terminated and your future as a professional

footballer must be in doubt. There has been and will be irreparable damage done to your family and, of course, the custodial sentence you must serve will in any event separate you from your family. You are now 28 years old. I recognise that you have no previous convictions and that this will be your first prison sentence and that such a sentence will therefore be the more difficult for you. However, all of this is of course entirely your own responsibility and fault.

I must sentence you in accordance with the Sentencing Guidelines. These are the Guidelines which apply to offenders sentenced after 1st April 2014 and which differ from the 2008 Guidelines which applied to earlier cases.

The offence involving digital penetration of the vagina is, as is accepted on your behalf a Category 1 offence in terms of harm.

In my view that offence is also a Category A offence in terms of culpability. I identify the following factors as being present:

There was undoubtedly significant planning involved, in the communications and in the arrangement of meetings.

There is an abuse of trust, inasmuch as those who enjoy positions of what today is known as 'celebrity' are trusted by their fans and the family of fans to act in an entirely appropriate manner towards, in particular, young people who are less able to protect themselves.

You solicited sexual images of M albeit that you did not receive any naked photographs of her.

There was a significant disparity in age; M was 15 and you 27 at the time.

Whilst it is right that some of the factors associated with Category A offences are absent, I have concluded that there are sufficient factors to place your

offending comfortably into Category A, albeit that it is possible to see that there are cases within that Category which would be more serious than yours. This being a Category 1A offence, the Guidelines indicate a starting point of 5 years and a range of 4-10 years. I must then consider the presence of aggravating and mitigating factors.

I identify the following aggravating factors:

the location and timing of the offence – the dark and secluded location;

the efforts to dispose of or conceal evidence. You made to have M dispose of the WhatsApp messages and you yourself deleted over 800 messages. You required the subsequent change to using Snapchat messages because they would automatically delete.

steps taken to prevent the reporting of these matters. You repeatedly directed M that she should tell no one what was happening as between you.

A further aggravating factor in such cases is where there is severe psychological harm. I have the benefit of information as to the impact of your offending on M. I have the detail discussed in her interview with the police on 16th April 2015, in which M spoke of people asking her about this matter and judging her, with particular reference to the impact upon her schooling and her life outside school. She spoke of an incident where a complete stranger made unpleasant and hurtful comments to her about what had happened, at a time when M was with family on a trip away from home. She said that she was scared by that experience, noting that the person who approached her was completely unknown to her. M also spoke about the impact of the offending on members of her family.

I have received a Victim Personal Statement made by M on 8th March 2016, after the conclusion of the trial and, of course, over a year after the commission of the offences against her. M referred to the processes following her disclosure up to and including the trial, observing that your continuing

denials left her feeling intimidated and isolated as she was accused of things and was unable to defend herself. She speaks of 'entering many dark places' in that year and that she had suffered bullying and stress and had under-achieved at school as a result of this case. The statement of M's mother, L refers to the impact on M and her family and alludes to the abuse to which M has been subjected on social media, where M has received "thousands of malicious remarks and some disturbing threats of violence."

I have a report from Joanne Rubbi, a Sexual Abuse Child and Adolescent Psychotherapeutic Counsellor who has been providing support and counselling for her anxiety, depression and harmful thoughts as a consequence of what has happened, by which is meant not only the sexual abuse she suffered but the responses she has received from her peers and members of the public. M has experienced sadness, anger, fear and confusion which have impacted on her sleeping and eating patterns, suffering bad dreams and night terrors and, as a consequence low mood, tiredness and physical symptoms such as nausea and weight loss. M has suffered a loss of self-esteem and, I note, a loss of trust in others.

I note that, whilst many of these difficult consequences of this offending are not uncommon in cases involving sexual abuse there appears to be clear evidence that those consequences have been somewhat exacerbated in the present case because of your status, the widespread knowledge of the case in the area in which M lives and the apparent knowledge of M's identity which has led to her receiving abuse and insults, from her peers and from members of the public. Whilst it is of course not suggested that you have orchestrated any of this abuse, your standing and your offending are the only reason that this child has suffered abuse far beyond that which might be expected in other cases of a similar nature. That is an unusual and particular feature of the harm suffered by M and her life has been adversely affected in the past year and such effect is ongoing.

Ms Rubbi expresses the concern that the events with which we have been concerned will likely have a significant impact on M in the future, including

the ability of this young girl to form healthy, loving, intimate relationships in the future.

In the course of her evidence M made reference to the abuse to which she has been subjected since these matters come to light and the distress she has been caused. I am also aware of M's particular reaction to her experiences after she had given evidence and have seen hospital records for 17th February 2016. It seems inevitable that M will require ongoing therapeutic interventions into the future. You yourself said to the psychiatrist Dr Hopley "I have changed M's life." On the evidence I have received from M and from her Counsellor I am satisfied that M has suffered severe psychological harm and have no doubt that I should take this into account.

Insofar as mitigating factors are concerned, it is right that you have no previous convictions and are of good character, but this is a case which the Guidelines anticipated, where your very character has been used to facilitate the offence and is not, therefore a mitigating but an aggravating factor. I accept that M did not enter your car on any occasion because she knew you to have no previous convictions. She did so because of who you were. It is not unimportant that you have no previous convictions and I do not disregard that entirely, but it was because you were at that time a respected Sunderland football player that you were able to commit these offences. Whilst it is right that the events, the subject matter of the Indictment, apart from the grooming occurred on one occasion, this is not a case in which it could be said that the offences of 30th January were committed in isolation.

I have read with care the reports to which I have already referred and listed with care to Dr Hopley. I would likely do them a disservice were I to attempt to summarise them, but it seems to me they speak of a person with a gift for football who enjoyed success from an early age, yet whose immaturity both physical and mental caused difficulties and may in part explain why, notably when you had moved to play for Manchester City you embarked on an extensive social life which involved sexual activity on a very frequent basis with a number of different partners, even when you were ostensibly in a

settled relationship. You do not suffer from any mental illness but are described as having a very high libido and a tendency to engage in sexual activity to a compulsive degree. Dr Hopley speaks of your careless and reckless disregard for the age of your victim due to your lack of clear thinking and your compulsive drive to have new sexual experiences. Ms Appleyard puts the offending in the context of you having difficulties with self-awareness and stress or coping with the birth of your first child being imminent but also having regard to your preoccupation with sex as a counter to your inability to obtain a romantic sexual relationship. She says you used your professional status to obtain partners for your sexual gratification and that you were able to persuade yourself that the participants were not damaged in any way by the experience. She describes you as having a hypersexual disorder. All of the professionals share the view that you are needing of some form of treatment or assistance and it is a view which I hope will be conveyed to those who will have care of you during your detention. It is, however important to note that the relevant reports consider that you do not pose a significant risk to children in the future and I accept that conclusion.

I take into account all that I have read and all that has been said on your behalf.

As I have observed, the range of sentence for offences such as this is between 4 and 10 years. The aggravating factors I have identified raise your case up from the lowest figure given for the range. I have come to the conclusion that the starting point of 5 years' imprisonment is the appropriate sentence for this offence.

The second Count of Sexual Activity with a Child is concerned with you kissing M. It is very much a less serious offence being Category 3, so far as harm is concerned. The Category A Culpability factors are of course the same as are the aggravating and mitigating factors. The Sentencing Guideline indicate that the starting point for a Category 3A offence is 26 weeks custody and the range

a community order to 3 years custody. In light of the sentence imposed for digital penetration of the vagina only a custodial sentence is appropriate. I take the appropriate starting point to be 26 weeks but reduce that by 10% to reflect your guilty plea. Because this offence was committed on the same occasion, the 30th January the sentence I impose will be a concurrent sentence of 4 months.

One factor going to culpability in an offence of Sexual Activity with a Child is 'Grooming behaviour used against the victim'. *Grooming* occurs when a perpetrator befriends and builds an emotional connection with a child to gain their trust for the purposes of sexual abuse. Whilst it may, and in your case does include sexualised behaviour, whether in words or deeds, it also includes innocuous or innocent behaviours which are an essential component in the building of trust between the perpetrator and the victim.

In your case that grooming behaviour is of course the subject matter of a separate Count. In my view it was right to have a separate Count for this, because it represented the extensive and ongoing grooming of this child from at least December 2014 and which continued after the 30th January and until the 26th February. That Count represents every opportunity you took to encourage M to meet you for the purpose of sexual activity and every opportunity you had, but chose not to take to bring this matter to an end. It represents that, even after you had sexually abused her on 30th January you were not remorseful and apologetic but rather that you were anxious to engage in further and more significant sexual activity with M in the future. It includes the texts and messages. It includes the meeting of 17th January which was fundamental to gaining M's trust for what was to come. It is a separate offence because, in this case it is not merely a part of the offences of Sexual Activity with a Child. It requires a separate sentence and should not be treated merely part of the sentence for Sexual Activity with a Child. I acknowledge that offences of Sexual Activity with a Child will often involve an element of grooming but where, as here that grooming took place over a protracted period of time both before and after the commission of the offences where there was physical contact with the child, I consider it right that a separate

and consecutive sentence is required to indicate the gravity of the offence of grooming.

Looking at the Guidelines for the grooming offence, I find that there are no factors indicating raised harm. Although a photograph of M wearing a bikini was received and you sought a picture of her naked, no such image was ever provided and so the factor of 'sexual images exchanged' is absent.

Turning to culpability, I find the following factors indicating raised culpability:

abuse of trust;
use of a gift;
communications indicating your desire for penetrative sexual activity.

Accordingly I find this to be a case of raised culpability but with no factors indicating raised harm. It is therefore a Category 2 offence with a starting point of 2 years and a range of 1-4 years custody. There are present the aggravating features of the disposal of evidence and the steps taken to prevent M reporting the matters at all, matters which of course have been taken into account on the Counts of Sexual Activity with a Child.

As I have said, the grooming behaviour warrants a separate and indeed a consecutive sentence in this case. Whilst a sentence of 2 years might be considered appropriate on the Guidelines, I have regard to the principle of totality. I take as my starting point a sentence of 15 months' imprisonment. That will be reduced to 12 months to take account of the credit due for your guilty plea but will be consecutive to the sentences imposed for the offences of Sexual Activity with a Child.

Accordingly, the total sentence is one of 6 years' imprisonment.

You will be required to comply with the Notification Requirements for the Sex Offenders' Register, indefinitely.

Having regard to the offences of which you have been convicted and to the contents of the reports prepared on your behalf, it might be a natural response to consider that some form of Sexual Harm Prevention Order is called for, given the compulsive sexual disorder from which you are said to suffer. However, the law is clear that the imposition of such orders is not to be regarded as being automatic whenever an individual is convicted of such offences, but must only be imposed when they are necessary. I do not consider such an order is necessary in this case. Your tendency to sexual activity is not such as requires such an order for the protection of the public. The reports are as one that you pose a low risk of future harm. The sentence you must serve will doubtless contribute to deterring you from future offending and the significant notification requirements contain a sufficient protective element.

I do, however make a Restraining Order in the terms sought.

Finally, it does seem to me just and reasonable that you pay the Prosecution costs of this case in accordance with the provisions of Section 18(1)(c) of the Prosecution of Offences Act 1985, having regard to your conduct in contesting 2 matters to which you entered guilty pleas at the beginning of the trial and in contesting the two Counts at trial, albeit that you were convicted of only one. That you were acquitted of one Count means that I should reduce the amount of costs you should pay. I am satisfied that it is a reasonable inference for me to draw that you have the means to satisfy this order on the evidence heard in this trial regarding your financial circumstances. The costs sought by the Prosecution are £67,132.00. You will pay £50,000 of those costs incurred.

-ENDS-