



JUDICIARY OF  
ENGLAND AND WALES

**In the Crown Court at Norwich**

**R. v. Michael David Souter.**

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**Sentencing remarks of HHJ Mark Lucraft QC, 31<sup>st</sup> October 2013.**

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1. On Thursday 17<sup>th</sup> October 2013 the jury convicted you on all but two of the 28 counts you faced on the indictment in this case.
2. Counts 1 to 19 covered abuse by you on seven separate people – each at the time a young boy aged between 11 and 16. These counts spanned periods of time from 1979 to 1981, 1988 to 1994 and 1998 to 1999.
3. Counts 20 to 28 concerned a number of indecent images found on your computers following your arrest in 2011 and further arrest in 2012. You were convicted of being in possession of five images and the making of two others. The images were at levels, 1, 3 and 5 of the levels of seriousness adopted by the Courts – 5 images at level 1, 1 image at level 3 and 1 image at level 5. You were acquitted of one count of possession of an indecent image and I discharged the jury from returning a verdict on another count of possession of an indent image.
4. Count 1 was an indecent assault by you on A. He had come to your home to wash your car. Aged 14 to 15 he had a Saturday job with Radio Norfolk and had met you through that job. After washing your car when he was aged 15 or

16 you gave him alcohol to drink. He then felt the effects of alcohol and had to lie down. Whilst he was lying down you assaulted him by touching his penis and beginning to masturbate him.

5. Count 2 concerned B - a boy then aged 16 who was a member of the Venture Scouts in Norwich. You went with him on a cycling trip and indecently assaulted him whilst the two of you were spending the night at a Scout camp. Again there was some alcohol on this trip and the assault involved you touching his genitals and masturbating them. Those two incidents took place in the period between March 1979 and December 1981.
6. Counts 3 and 4 are specimen counts covering your actions in getting another young boy then aged between 11 and 15 – C - to masturbate you until you ejaculated. Those events took place between 1988 and 1993. C was someone who met you through his parents who had connections with you through scouting. He was someone you took on trips to various sites including football matches and then to your caravan. Whilst he was staying with you in the caravan you began to abuse him – the abuse starting with tickling or touching and leading to him masturbating you.
7. You were someone that his parents looked up to and trusted. They had no reason to doubt your motives in caring for their son. He spoke about continuing events between you and him after he was 16. After he was 16 he had begun to perform oral sex on you. It had become expected of him that he would perform such acts on you.
8. Counts 5 to 10 cover the abuse by you of a person called D. Between the ages of 11 and 16 you sexually abused him. You acted as an adult mentor to him. He was someone who had no father figure in his life until you came along. His account is like so many of the others in this case. You were someone who was kind to him initially, someone who was able to show him things and take him to events that he had not seen as part of normal growing up. You used your status as a man involved in local radio and as someone who was

looked upon in society as a role, to get him – as with the others – to trust you, and someone who the parents of these boys trusted.

9. What you did to D was to abuse him from an early age – you started by touching him and then to masturbating him, then getting him to masturbate you and then between the ages of 12 and 14 you committed buggery on him. The counts that concern abuse on him are all specimen counts. Whenever he was staying at your home you would assault him and commit buggery on him. The abuse covered in counts 5 to 10 spanned the period from June 1989 to June 1991. He could not give a precise number to the occasions when you committed buggery on him – in evidence he said 10 to 12 times.
10. Counts 11 to 17 concern E. In 1991 you applied to adopt E and he lived with you as your adopted son for about 2 years. In September 1993 he complained to the Social Services and to the police that he had been sexually assaulted by you. He claimed the abuse took the form of touching, masturbation, oral sex and buggery. There was an investigation by the police. You were arrested and interviewed. You denied any abuse of E. On 30<sup>th</sup> September 1993 the Crown Prosecution Service made the decision not to proceed with any criminal charges. The Local Authority made an application for a Care Order. The grounds for the application were two fold: the allegations of sexual abuse, and the lack of co-operation from you in planning for E's future. In due course a Care Order was made by the County Court. There was no fact finding exercise conducted by the County Court into of the allegations of abuse made by E.
11. There was a further investigation in 2002. That second investigation proceeded no further than the taking of some statements. You were not arrested nor interviewed at that time. It was believed that you were living abroad at the time – a fact that you disputed in the course of this trial.
12. In 2010 E made a further statement to the police. The police returned to speak to him following the complaint made by D. Thankfully on this occasion more extensive enquiries were made what led – in due course to this trial.

13. The account that E gave was of abuse starting just before he went to bed, and abuse that started with ticking, touching of the penis, then masturbation, you performing oral sex on him and then getting him to do the same to you. You then committed buggery on him. This was so frequent an occurrence he could not say how many times it happened. You also caused him to bugger you.
14. The abuse took place in a number of locations. As with the other boys you abused, you would taken them on trips away – both within the UK and abroad. The counts that concern E spanned the period from December 1990 – so prior to the formal adoption by you of him – through to late 1992 or early 1993. His initial complaint was in September 1993 and he said then that things had ceased some months before that.
15. Count 18 deals with an indecent assault by you on F. He was 14 when you abused him. He stayed at your home and – as with so many of the others – at bedtime you called him through to your room and touched his penis and then masturbated him after he had masturbated you. This incident occurred after he – and his mother – had made statements in support of you as part of the Care proceedings conducted following the revelations made by E in 1993.
16. Count 19 deals with indecent assault on G. He is one of the younger brothers of D. While you were looking after his brother he would tag along. After you stopped having contact with D, G continued to see you and in that period you took him to a caravan at Kelling Heath when he was aged 14 and suggested he should get into bed with you. You rubbed yourself against him and thrust yourself towards him. Compared to many of the other assaults in this case, this was a less serious assault. However, it has many similar hallmarks to the other instances of abuse in this case.
17. You denied each one of these allegations. You accepted having sexual contact with just one of these boys – C, but only after he was 16. Your evidence of contact with him was bizarre. You described your position as

having been a surrogate father to him and yet developing a sexual relationship with him. His account – which is one that I accept – was of sexual contact happening between the ages of 11 and 15 and continuing after he was 16 – it was something that became expected of him. In evidence he said it was never forced – he was persuaded or cajoled into doing it.

18. In relation to the allegations made by E – the boy you adopted - you sought to put the blame on to him – alleging that he made sexual advances towards you.
19. These 19 counts cover a most appalling catalogue of abuse. These were breaches of trust of the grossest kind. The already damaged childhood of many of your victims was destroyed, and their lives blighted. Your conduct was persistent and prolonged. You are someone who enjoyed a position of some power and authority.
20. It is clear to me having listened to each of the witnesses give evidence that you exploited your position to groom each of them – to cajole them – to achieve your own sexual gratification with them. Your role as a ‘Link-Up’ carer to one of these victims, as an adopting father to another and a Scout leader to others – displays a breach of trust that is almost impossible to fathom. As was clear from the evidence of E, the abuse of him had started before the formal adoption was approved.
21. There were others – not covered within these counts - who were also abused by you. You took hundreds of photographs of boys in shorts with their legs spread. You were the only person in this court who could not see those photographs for what they are. It is clear that you have a troubling interest in young boys. The parents of many of the boys you photographed would be deeply troubled by the images. It is clear that the parents were totally unaware of your deviant interest.
22. You used your status working for the BBC, working for the local football club and with the Scouting organisation to meet, groom and then to abuse these boys. Many of your victims spoke about your status as a local celebrity –

introducing them to footballers and to well known people – taking them out to places they had never been to before. Many of them spoke about how freely available alcohol was in your home.

23. Your defence has involved alleging that each of those you abused has concocted an account, that each has worked with the others to bring you down and to make money out of you. It takes enormous courage to be prepared to disclose abuse of this kind – and even greater courage to give evidence of these matters in a court. For many it took many years to summon up the courage to do so – but they did so, and gave compelling accounts.
24. The evidence against you on these counts was overwhelming and the jury rightly rejected your pathetic attempts to blame the victims and others.
25. I have seen a number of Victim Impact Statements. The 5 statements I have seen are from your victims and also from the mother of a victim. Each statement sets out the impact the abuse and the process of the trial has had on them. One of them speaks about the impact on them of your use of the media to declare your innocence and also of your stance in the trial. *“However, seeing him on camera trying to manipulate the media when first in court “I’m going to prove my innocence” and throughout the trial accusing us of lying, the police of planting evidence and even the barristers and the judge colluding against him, brought a real fear throughout that somehow he would walk free and all the guilt would land back on me. From his manner displayed in court you might be able to imagine how a boy could be controlled by him and unable to speak out against him”* At the end of the same statement he says: *“I had hoped that a guilty verdict would have finally allowed me to bring closure to this and release the burden I’ve carried for so long. But it hasn’t really. I have been able to talk about it with a few people since the verdict and been overwhelmed by the kindness and understanding I’ve received (and also their shock/surprise that I was a victim). I even talked to my mum about it for the first time the day after I was in court – a few tears were shed. Souter’s insistence that he is innocent and this is all lies and conspiracy has not allowed full release and closure sadly.”*

26. Many speak of the guilt they feel in others being abused by you. A number speak about needing counselling help and assistance. One puts it concerns this way: *“Problems with trust, intimacy and sexual difficulties began to slowly decline 12 years after the abuse had stopped, yet failure to form long-term meaningful relationships continues to be problematic and is another reason for seeking therapy.”*
27. The images found on your computers when they were searched, show that you continue to have an obsession with young boys. The dates on the counts cover 2010 to 2012. For example, the image the subject of count 21 – a level 5 image was found on the hard drive of a computer seized on 6<sup>th</sup> March 2012. The file containing the image was created on 1<sup>st</sup> January 2012 using data backup software called ‘Genie Timeline’. The images the subject of counts 22 and 23 were sent attached to an e-mail addressed to you using the e-mail address [redacted] and was dated 5<sup>th</sup> May 2011. Those images were found on a computer seized on 8<sup>th</sup> June 2011 and the accompanying e-mail referred to 10 pictures for you and to scouts. All of the images were of boys or young men with their erect penises exposed.
28. All of the files where the images concerned in the counts in the indictment were found were all active files that had not been deleted.
29. The jury had before them numerous e-mails and other documents from your computers that you sought to explain away as adult fantasies. In evidence you suggested that someone was sending you this material for malicious reasons. The e-mail traffic produced in the course of your evidence showed that these images were coming to your active e-mail addresses and in many instances you were responding to the items sent to you.
30. Documents and chat logs in your possession as well as the e-mails show this continuing deviant interest in young boys. In your evidence you sought to portray all of this material as ‘normal’ adult chat. These so called fantasies displayed a worrying interest in meeting young boys, and of wanting to do the

most appalling things to them. I do not accept that all of this material is you speaking to other adults with the most worrying of obsessions, but you seeking thrills from people foolish enough to converse with you on e-mail, and of an on-going sexual interest in young boys.

31. Following your conviction I adjourned sentence to consider sentence and to have the benefit of a pre-sentence report to assist in the consideration of the question of whether you pose a significant risk of serious harm from the commission of future specified offences by you.
  
32. I have before me the decision of the Court of Appeal in **R. v. H** [2011] EWCA Crim 2753 and also the decision of the Court of Appeal in **R. v. Stannard & Others** [2008] EWCA Crim 2789. Mr Hill has also brought to my attention the case of **R. v. N** from the court of Appeal on 13<sup>th</sup> November 2012.
  
33. Counts 1 to 19 represent conduct between 1979 and 1999. Counts 21 to 26 and 28 conduct between August 2010 and January 2012. The conduct comprised by counts 1 to 19 is different in nature to that in counts 21 to 26 and 28. There is no allegation of any assault on anyone since 1999 – now some 14 years ago and the last incident of buggery took place in 1992 – now some 20 years ago.
  
34. Indecent assault on a male person contrary to section 15 of the Sexual Offences Act 1956, Indecency with a Child contrary to section 1 of the Indecency with Children Act 1960, the Possession of Indecent Photographs of a Child contrary to section 160 of the Criminal Justice Act 1988 and the Making of Indecent Photographs of a Child contrary to section 1(1)(a) of the Protection of Children Act 1978 are all listed in Schedule 15 of the Criminal Justice Act 2003 as specified offences – offences of buggery contrary to section 12 of the Sexual Offences Act 1956 – for some reason are not in that schedule. Some of the offences are not classified as serious offences by virtue of the maximum terms.



35. As the authorities I have referred to make clear, I need to consider the question of dangerousness – is there a significant risk of serious harm from future specified offences committed by you? Serious harm means death or serious personal injury whether physical or psychological. In making that assessment I can – and should consider all of the matters before the court – the entirety of the conduct.
36. I also have before me the definitive guideline of the Sentencing Guidelines Council which covers offences under the Sexual Offences Act 2003.
37. The conduct in the counts of buggery would be categorised as rape within the current guidelines. In the language of the guidelines these six counts of buggery – each a specimen count – come with the top level of repeated rape of the same victim over a course of time or rape involving multiple victims. Here there are two victims aged between 12 and 13 and 13 and 14. The starting point for sentence provided in the current guidelines is one of 15 years' imprisonment and the range 13 to 19 years' imprisonment. The current guidelines on rape list additional aggravating factors. Some apply here. For example, offender ejaculated or caused victim to ejaculate, a background of coercion, the use of alcohol or treats.
38. Of the eleven counts of indecent assault ten involve conduct that is categorised in the current guidelines as contact between the naked genitalia of the offender and another part of the victim's body or contact with genitalia of the victim by you - the offender – using part of your body other than the genitalia, or an object. Some of the victims were aged under 13 and some between 13 and 16 at the date of these offences. The current guidelines give a start point of 2 years' custody if the victim is under 13 and a sentencing range of between 1 and 4 years custody, and a start point of 12 months custody when the victim is aged 13 or over and a range of sentencing of between 26 weeks and 2 years custody when the victim is aged over 13. It has to be noted that the maximum sentence for sexual assault is 14 years, whereas the maximum sentence that applies to each of the eleven counts of indecent assault in this indictment is 10 years.

39. In relation to counts 3 and 4, the conduct in those two counts is also to be considered within the current guidelines as sexual assault. C who is the subject of those two counts was aged between 11 and 15 at the time – and again these are specimen counts.
40. The current guidelines on sexual assault list additional aggravating factors. Some apply here. For example, offender ejaculated or caused victim to ejaculate, and the use of alcohol to facilitate the offence.
41. In relation to the images, the current guidelines set out a starting point of 26 weeks custody for possession of a small number of images at level 4 or 5.
42. I have already stated that the maximum sentence for indecent assault on a male person at the time when the offences were committed (11 of the counts on this indictment) was one of 10 years imprisonment. For buggery (6 of the counts) it was life. For indecency with a child (2 counts) the maximum sentence was one of 2 years imprisonment.
43. The pre-sentence report makes clear that you maintain your innocence to these charges and has within it the results of analysis on the likelihood of re-offending.
44. In mitigation Mr Hill urges that a determinate sentence is the most appropriate way of dealing with you. He refers to your age and makes reference to the charitable and other good works you have done in your time. Whatever the sentence he makes the point that you will spend the bulk of your final years in prison.
45. I have considered the question of dangerousness, and the application of the test. The test is this: Is the court of the opinion that there is a significant risk of serious harm from future specified offences committed by the offender? In my view there is a clear risk of the commission by you of further specified offences, and that is a risk which in the light of the material from 2010

onwards as well as all of the earlier conduct is properly to be assessed as a high one. In terms of serious harm, that includes serious psychological injury. The key question is whether that part of the test – serious harm is met?

46. In considering the applicability of the issue of dangerousness I take into account that the more recent conduct is different in nature to the earlier conduct, and that there the last count of indecent assault was 14 years ago and the last count of buggery 20 years ago. The e-mails and other material from your computer display an on-going sexual obsession in young boys. The images covered in the counts on the indictment are mostly of level one, and other images that were found but not included as counts on the indictment were also mostly level one. As was clear from the jury decision on count 27 and what they had indicated about count 20, some of the images are of those on the boundary between 17 and 18. I take the view that you are someone who if not incarcerated would pose a high risk of the commission of specified offences, but have come to the view that the test about significant risk and serious harm is not met.
47. I have also considered the question of the imposition of a sentence of life imprisonment for the offences of buggery. The offences of buggery carry with them a maximum sentence of life imprisonment. I have given lengthy consideration as to whether those offences in themselves are so serious and grave as to warrant the imposition of life imprisonment. Again on this issue I have to take into account that the offences of buggery took place between 1989 and 1992 – now some 20 years or so ago, as well as the fact that the most recent of the assault matters was in 1998 or 1999 – now some 14 or 15 years ago.
48. There has to be a concern for public protection from someone such as you. It seems to me that the appropriate way to address that concern here is in the length of the overall determinate sentence I should pass.
49. There are a number of complainants and their complaints could be dealt with by imposing consecutive sentences. If I was to do so I would have to have

regard to the overall length of the sentence appropriate in your case.

Alternatively, I can consider the overall conduct reflected on the counts – particularly having regard to the offences of buggery - and pass concurrent sentences on the other matters.

50. On each of counts 1 [*this was victim A and I have taken his age as 16 when the incident happened*] and 2 [*victim B aged 16*] there will be a sentence of 18 months' imprisonment. On each of counts 3 and 4 [*specimen counts when victim C aged 11 to 15*] there will be a sentence of 20 months' imprisonment.
51. On counts 5 and 6 [*specimen counts when D aged 12*] there will be sentences of 3 years' imprisonment on each count. On count 10 [*a specimen count D aged 13*] there will be a sentence of 2 years' imprisonment. On counts 7, 8 and 9 [*the first occasion when buggery took place and two specimen counts of buggery - each D aged 12 and 13*] there will be sentences of 22 years' imprisonment on each count.
52. On counts 11, 15 and 16 [*the specimen counts of buggery - each of them E when aged 13 and 14*] there will be sentences of 22 years' imprisonment on each count. On counts 12, 13 [*specimen counts of assaults on E aged 13 in each count*] there will be sentences of 2 years imprisonment on each count and on counts 14 and 17 [*specimen counts of assaults E aged 14 and 15 respectively*] a sentence of 18 months on each count.
53. On count 18 [*F aged 15*] there will be a sentence of 18 months' imprisonment and on count 19 [*G aged 14*] a sentence of 12 months' imprisonment.
54. On counts 21, 22, 23, 24, 25, 26 and 28 there will be a sentence of 6 months imprisonment on each count.
55. All of these sentences are to be concurrent to each other making the total sentence one of 22 years' imprisonment.

56. Unless released earlier under supervision you will serve one half of that sentence in custody. You will then be released on licence for the remainder of your sentence. While you are on licence you must comply with all its conditions. At any time it may be withdrawn and your return to custody ordered.
57. There will be an order disqualifying you from working with children – that order will be for an indefinite period.
58. The prosecution costs. The prosecution seek an order for costs. The amount sought covers the expense of the preparation and presentation of the trial. The amount sought is £18,694.08. In the course of the trial it was clear that you own a number of properties in the UK and abroad and it seems to me that you are someone who has the means to pay the costs. That is to be paid within 8 months of today.