

**ROYAL COURT
FULL COURT**

8 March 2019

**Before: John Russell Finch, Esq., O.B.E., Judge of the Royal Court and:
Barbara Jean Bartie, Stephen Murray Jones OBE, David Percy Langley Hodgetts LVO, Terry
John Ferbrache, Jonathan Grenfell Hooley, Steven John Morris, Joanne Marie Wyatt, Alan
Stevenson Boyle, Marilyn Jasmine King, Jurats.**

THE LAW OFFICERS OF THE CROWN

- v -

CARL ANTHONY HALKER

Crown Advocate F Russell appeared for the Crown

Advocate L C Roffey appeared for the Defendant

JUDGE OF THE ROYAL COURT:

Background

You appear before the Court for sentencing on one count of indecent assault. On 28th January 2019 the Jurats considered that you should be sentenced on your own version of events in a so-called “Newton Hearing”.

We stress that that is what we are sentencing for today. It boils down to what we treat as consensual sexual activity with a girl then aged 15 when you were 17. Consent, of course, is no defence. There was skin to skin contact and the touching of genitals was involved.

You have a number of relevant convictions. It is right in the circumstances that we were made aware of the details, and you are now 19 years old.

You are currently serving a 30 month period of Youth Detention for making and possessing indecent images of children, possession of cannabis and breach of a Probation Order, also imposed in relation to sexual offences. This offence took place four weeks before being remanded in custody for the present period of Youth Detention, whilst on Police bail, and on Probation – that Order being revoked when you were sentenced for the original offences. Your estimated date of release, I take, as the 21st March of this year.

There have been a number of sexual convictions since 2013. You are subject to a Multi-Agency Public Protection Arrangements (MAPPA) and Notification Requirements. In February 2018, this Court made you subject to a 7 year Extended Sentence on release and we note the conditions.

In relation to your history of sexual offending, this can be summarised as a 2013 reference to the Children’s Convenor for possessing and distributing indecent images of children and other offending

in 2015 and 2016 for, as the Probation Report tells us, “contact” and “non-contact” offending in relation to pubescent females.

The offence today has a maximum sentence of life, as it is common-law, not by statute.

Sentencing Considerations

Without wishing to appear repetitious, it has again to be emphasized that today our task is to sentence on the basis that this was a consensual offence. This is the consideration that we must always place at the top of our minds. We sentence on the Defence version of the facts.

We re-emphasize this because, as is apparent from the summary which has just been given, you are already a prolific sexual offender, subject to considerable preventative measures. But the principle, as stated, is that we sentence on the offence that is before us. That does not mean that in doing so we act in a kind of vacuum, your history and background are relevant. Hence, we take into account the helpful and detailed Probation report. This states, amongst other things, that you present “a very high sexual risk of harm to vulnerable pubescent females”. You present as “motivated to circumvent rules and attempt to obtain ‘power’ over others”. You choose to circumvent rules to achieve your own ends, knowing it is illegal and that harm is caused to others. Your risk of harm to females is assessed as “very high”.

In view of your significant previous convictions we consider that a custodial sentence is merited. We start at 9 months. Your bad record noticeably enhances this starting-point, despite the decision made at the hearing and we give appropriate weight to the short Victim Impact Statement, in the light of our findings.

Mitigation

Your capable Advocate has represented your interests with considerable commitment throughout. He has said everything that possibly could have been legitimately put forward on your behalf. We must also note your age, so that you are subject to Youth Detention. In your favour is the plea of ‘Guilty’ and the finding in your favour on the facts. We are also bound to say that although unpleasant, this is not in the top bracket of indecent assaults. The starting-point and sentence would, of course, be significantly higher if it had been found that the offence was non-consensual, but it is still an offence and has to be assessed in the light of your bad sexual offence record.

We consider, in all the circumstances, that a one-third discount is justified. A Community Service Order would be inappropriate in all the circumstances. It might have been for a first offender, but you are a repeat offender. It is not only your interests which we have to consider, even where a young person is involved. Proper regard has to be given to the wider interests of the community in preventing reoffending and, protecting potentially vulnerable victims. All these considerations must be weighed and a sentence produced which is just and proportionate to the circumstances of the case and takes proper account of the totality principles.

Sentence

On the facts of this case before us and taking the mitigation fairly into account, we find that a custodial sentence is necessary due to your previous inability to abide by non-custodial sentences, the protection of the public and, looking at the totality of the circumstances, the seriousness of the offence. We stress that had the Court found against you, the sentence would have been considerably greater.

The Probation Report gives us great cause for concern. Your history is that of a calculating sexual predator.

- The sentence is therefore 6 months' Youth Detention consecutive to any sentences you are presently subject to.
- You already have a 10 year Notification Period, which will remain.
- The Extended Sentence Licence you have is for 7 years already. But now comes into play on your new date of release.
- We do vary the Extended Sentence Licence by making the age of contacting a person to be 16 and not 18 years (and your Advocate can explain that further to you if you wish).
- We add the following one Condition regarding the complainant: "*Not to approach or communicate with the named complainant without the prior approval of your supervising officer.*" Accordingly, Greffier an Extended Sentence Licence with those Conditions should be produced.

Judge J R Finch OBE
Judge of the Royal Court

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