

Acts of assault, indecent assault and gross indecency to a minor, sending an indecent image by means of telecommunication service.

[2022]GRC084

**ROYAL COURT  
FULL COURT**

**24<sup>th</sup> October, 2022**

**Before: Catherine Maureen Fooks, Judge of the Royal Court and Jurats:  
Claire Helen Le Pelley, Steven John Morris, David James Mortimer, Stuart Michael  
Crisp, Marilyn Jasmine King, Tina Jane Le Poidevin, Simon Ernest Bodkin, James Robert  
Toynton.**

**THE LAW OFFICERS OF THE CROWN**

**- v -**

**RODNEY EDWARD JOHN CHRISTIAN**

**Advocate F M Russell appeared for the Crown**

**Advocate C J Green appeared for the Defendant**

**JUDGE OF THE ROYAL COURT:**

**Media Warning**

Section 45 of the Criminal Justice Sex Offenders and Miscellaneous Provisions (Bailiwick of Guernsey) Law 2013 applies to this case, so there must be no publication of any matter, including but not limited to the name, address, work, school, or any photographs likely to lead to the identity of the complainant, in relation to the sexual matters in this case in the complainant's lifetime. Any publication is an offence and social media is also included in that. For that reason, in the course of delivering these sentencing remarks I will refer to the complainants as A, B and C. A being the complainant in relation to the sexual matters, B being her younger sister and C being the friend.

**Background**

Mr Christian you appear for sentence on an 11 Count Indictment. Counts 1 to 3 are Counts of indecent assault against A, Count 4 is a Count of gross indecency against her, Counts, 5 to 7 are of assaulting her, Count 8 is of being concerned of the supply of Cannabis to her, Count 9 is an assault on B, A's younger sister, Count 10 is an offence of sending an indecent image to C, A's friend, by means of telecommunication service and Count 11 is an assault on C.

The maximum sentence for assaults and indecent assaults is life imprisonment, for the gross indecency offence 5 years' imprisonment, for the offence involving the photograph, 2 years' imprisonment, and the drug offence 21 years' imprisonment.

The facts have been set out in detail by the Prosecution and I will only summarise them in the course of these remarks. The events all occurred over a few months in 2020, effectively March to August.

In relation to A, despite her age, 14 and then 15 for the majority of the offending, you were in a sexual relationship with her. She was legally unable to consent to sexual activity. B is her younger sister, who was 13 at the material time and C is A's older friend, who was 17 at the material time.

The facts are as follows:

- Count 1 represents the first time upon which you had sexual intercourse with A, at your flat.
- Count 2 reflects the sexual intercourse with her at Beau Sejour Skate Park.
- Count 3 is a specimen count, which covers all the other times on which there was sexual intercourse. A said that it occurred every time that you met, even though she did not particularly want to, she got used to it.
- Count 4 relates to the Gross Indecency Count, in which you asked her for oral sex, grabbed her hair and held her down.
- Count 5 is a punch to A's face at the Bathing pools following an argument.
- Counts 6 & 9 relate to a game of "Bulldog", during which there was play fighting, your demeanour changed and you pulled A's hair, and slapped her. In relation to B, who was 13, she stepped in and told you to stop, at which point you stood up and slapped her on the head.
- Counts 7 & 11 relate to an argument in Forest Lane, in which you grabbed A around the throat and pushed her up against a wall. C, who was 17, and another person intervened and you threatened and spat at C. You were shouting that you would kill yourself.
- Count 8, which was the subject of a Newton hearing, relates to the supply of cannabis to A during the relationship on a number of occasions.
- Count 10, which was also subject of the Newton hearing, relates to a period where you were staying at C's house, you made unwelcome sexual advances to her, which she declined and later that evening you sent her an indecent photograph of yourself.

You were interviewed twice. As at the trial, you denied all sexual activity with A and you also denied any violence more than a slap, as a joke or effectively, blamed A and B for the "Bulldog" incident. You denied giving A drugs.

You were 23 years old, 21 at the time of the offences. You were born in England, but have lived latterly in the Isle of Man. You were in Guernsey from 2018 until October 2020. You came back voluntarily on the 18<sup>th</sup> November, 2021. You have one previous conviction for criminal damage, for which you received a CSO. You were first arrested in Guernsey in August, 2020 and were then on Police bail until you left in October 2020 and there were conditions attached to prevent your leaving. You have been on remand in Guernsey since the 18<sup>th</sup> November, 2021.

### **Sentencing Considerations**

There are four different types of offences in this matter and three separate victims. The four different types of offences comprise, indecent assault, physical assault, the supplying of Class B drugs and misuse of the telecoms system.

In terms of guidelines, sexual offences against a child are serious offences and this Court has no hesitation in concluding that the custody threshold is passed. There are no formal sentencing guidelines as such, for indecent assault or gross indecency and this Court always approaches such sentencing on the basis of local considerations, but with an eye on the English sentencing guidelines, which provide a useful guide especially in terms of aggravating and mitigating circumstances.

In relation to the supplying of drugs, there are guidelines. The sentencing guidelines which apply are contained in the case of Richards and those guidelines were recently considered and approved by the Guernsey Court of Appeal in *Barras, Watt & Orchard against the Law Officers*, 2021 GCA 045, the Court will continue to follow them.

As you have rightly conceded, overall your offending crosses the sentencing threshold. We have decided that the best way to approach sentencing in this matter is to group the offences by victim, and in relation to A, we have taken Count 3, the specimen Count, as being the lead offence. We have taken a starting point, before taking into account any aggravating factors of 4½ years, but that starting point is a combined starting point for all the offending relating to A. The starting point in relation to the drugs offence alone would be 3 years.

In relation to victim B, we have taken the starting point before aggravating and mitigating factors of 3 months and in relation to C, we have taken 9 months as a combined starting point. There are numerous aggravating factors in this case. Overall and across all offending is the age of the victims. There is also the number of the victims, their vulnerability, and the fact that A is a repeat victim. In relation to the sexual offending, there is the disparity of your age and the victim's age; you were 21, she was 15. There was actual penetration involved and the sexual intercourse took place in the course of an abusive relationship, in which she felt pressured to have sex with you and was also subject to emotional pressure and emotional blackmail. There is the use of alcohol and drugs within the offending, and in the gross indecency Count, there is an element of coercion.

Regarding the physical assaults, aggravating factors are the strangulation, the putting of hands around a victim's throat, which is dangerous, the spitting against C, which is also particularly dangerous, especially in Covid times and the fact that the assaults against A occurred within a domestically abusive relationship.

In relation to the drugs, the person to whom the drugs were being supplied was only 14 or 15 years old and in relation to the abuse of the telecommunications system, there is the context in which that photograph was sent, as outlined by the Prosecution.

We have taken into account those aggravating factors and we have set revised starting points, which, in relation to A, result in a combined starting point for the offences against her of 6 years, in relation to B, 4 months and in relation to C, 12 months. This gives a total starting point of 6 years 3 months, which is high, but reflects the range of offences and that there were three separate victims. We will of course, consider the totality principle after considering appropriate discounts for plea and mitigation.

### **Pleas**

The Court must first consider the impact of your guilty pleas on sentencing. You are not entitled to full credit. You had entered early guilty pleas to Counts 8 and 10, but Newton hearings were required. You entered guilty pleas to Counts 5, 6, 7, 9 & 11 on the morning of trial. C still had to give evidence because of the Newton on Count 10 and A had to give evidence in relation to the Newton on Count 8.

In the circumstances, we consider a total discount for the 7 guilty pleas of 10% to be appropriate. You have saved the Court some time, which enabled focus on the issues but there have been concerns that you have not fully accepted your guilt, in relation to these matters.

### **Personal Mitigation**

In terms of personal mitigation, the Court has considered carefully the Probation report prepared in respect of you. We have also listened to the submissions of your Advocate, which were realistic in terms of the offending and the likely outcome today. We have read carefully the letters which have been provided.

The Probation report and the letters from your parents paint a sad and concerning picture of your early life and the trauma and issues you had to face as a young person, which no doubt have played their part in where you are now and require further exploration as part of the work you will do after today. That work will also address your clear and longstanding mental health issues and your other additional needs, as well as the concerning behaviour towards young female children. The letters from your friends

demonstrate their loyalty and show a different side to your character, but they are written without true appreciation of the facts.

The letter from your parents' friend, attests to your kindness and capacity for charity work. She describes you as a vulnerable, immature, and naïve individual. Your partner remains supportive and her letter has also been taken into account.

Despite the issues that you faced as a young person, you managed to leave school with some qualifications and you have made efforts to work since you left school. You clearly have work to do as well to address the issues you have with alcohol and drugs. Alcohol played its part in some of your offending, notably the assaults where you appeared unable to control your emotions.

You left Guernsey in October, 2020 and settled back in the Isle of Man; it is to your credit you returned to Guernsey in November, 2021 voluntarily to face the consequences of your offending. The time you have spent on remand, will be taken into account by the Court.

Despite what your parents say and the apology offered through your Advocate today, you have not demonstrated any remorse to the Probation officer and you have maintained your innocence in respect of the not guilty Counts and minimised your offending in all other respects. It would appear that you have not fully accepted the Courts findings in relation to the Newton matters. This minimising and transferring of blame is of concern to the Court. Nonetheless your Advocate has confirmed that the pleas are effective and we sentence on the basis of those pleas.

We have received Victim Impact statements from A and C, the content of which is noted and taken into account, particularly the long lasting effects of your offending. Your best point in mitigation is your lack of previous convictions and your good character, which we take into account to the fullest extent possible. We also take into account that you were 21 at the time of offending and that you are an immature person i.e. younger than your chronological years.

You are assessed as having a very high risk of re-offending and, as posing a significant risk of harm to the public, especially through sexual, violent, and controlling offending towards young female children within intimate relationships, which must be taken into account.

The Court is concerned at the predatory nature of forming a relationship with a much younger child and the physically and emotionally abusive nature of that relationship, which extended to assaults on the younger sister and friend and the sending of the photograph. The placing of hands around A's throat is a particular concern, as are the lack of appropriate boundaries and impulsivity demonstrated within the offending.

In view of the seriousness of the offending, any alternatives to immediate custody could not be considered, as your Advocate sensibly conceded. In your case, punishment, deterrence, and rehabilitation are all important considerations for the Court. Protection of the public must also be an important factor. No community, especially this one wants to see this type of predation on young females and offending. Rehabilitation will be part of the sentencing process, to be addressed in prison and afterwards in the form of the extending sentence licence.

## **Sentence**

You have committed a number of offences against three vulnerable young female children. For at least two of them, the effects remain and will remain. You have the opportunity to come today to accept your responsibility for your offending but you do not do so, which is worrying. You are a danger to young female children and you must be sent to prison to reflect the seriousness of what you have done and the risk that you pose. You will have the chance in custody to have specialist help with your issues and the Extended Sentence Licence will ensure that you are properly supervised and continue with that work when you leave prison.

In sentencing you, we have taken into account the totality principle, to ensure that the total sentence is just and proportionate to the offending behaviour, and we have given you what discounts we feel that we can in all the circumstances.

As I have explained, Count 3 is taken as the lead offence, in relation to A and the sentence for that will be immediate custody of 4 years', and all the immediate custody in this list of sentences is with effect from the 18<sup>th</sup> November, 2021. So that is Count 3, 4 years' with effect from the 18<sup>th</sup> November, 2021.

- Count 3 - (victim A) 4 years' imprisonment
- Count 1 - 1 year imprisonment, concurrent.
- Count 2 - 1 year imprisonment, concurrent.
- Count 4 - 2 years' imprisonment, concurrent.
- Count 5 - 7 months' imprisonment, concurrent.
- Count 6 - 5 months' imprisonment, concurrent.
- Count 7 - 9 months' imprisonment, concurrent.
- Count 8 - 18 months' imprisonment, concurrent.
- Count 9 - (victim B) 3 months' imprisonment, consecutive.
- Count 10 - (victim C) 9 months' imprisonment, consecutive.
- Count 11 - (victim C) 4 months' imprisonment, concurrent with Count 10.

Total 5 years' imprisonment, with effect from 18<sup>th</sup> November, 2021.

### **Extended Sentence Licence**

Having considered the recommendation in the Probation report, with which this Court wholeheartedly agrees, we consider that the usual period of supervision if any, after sentence, would not be adequate for the purpose of preventing the commission of further offences and securing your rehabilitation. Consequently, the Court is imposing an extended period of imprisonment, in relation to the indecent assaults Counts and we are taking the part of the 4 years' sentence which relates to the indecent accounts as being 2½ years.

Extended Sentence Licences have a custodial term, which I have just explained together with the period of the extension after your release throughout which you will be subject to the licence. The extension period will be for the period recommended of 3 years, thereby enabling completion of the work begun while you are in prison, as well as monitoring and addressing your progress after release. If, upon release, you fail to comply with the conditions of the Extended Sentence Licence or are convicted of further imprisonable offence, the Court sentencing you or the Parole Review Committee can revoke the licence, in which case you could be returned to custody for the remainder of the sentence.

The standard conditions of an Extended Licence are as follows:

- To be well behaved and to not commit any offence and not do anything which could undermine the purposes of your supervision, which are to protect the public, prevent you from re-offending and help you to resettle successfully into the community.
- To keep in touch with your supervising officer, in accordance with any instructions you may be given, if required to receive visits from your supervising officer at your home.
- Permanently to reside at an address approved by your supervising officer and notify him or her in advance, of any proposed change of address or any proposed stay even if for one night away from that approved address.
- To undertake only such work, including voluntary work approved by your supervising officer and notify him or her, in advance of any proposed change.
- Not to travel outside Guernsey without the prior permission of your supervising officer, which will be given in exceptional circumstances only.

Additional conditions are added, as recommended in the Probation report, which the Court, adopting the guidance from the English case of Smith, 2011 EWCA 1772, considers necessary, not oppressive and proportionate. These conditions are clear and are as follows:

- To comply with any requirements specified by your supervising officer for the purpose of ensuring that you address your sexual offending behaviour problems.
- Not to have unsupervised contact with any female children under the age of 16, without the prior approval of your supervising officer, except where that contact is inadvertent and not reasonably avoidable in the course of lawful daily life.
- Not to approach or communicate with the named complainants without the written approval of your supervising officer.

### **Notification**

Having been convicted of a relevant offence under the Criminal Justice Sex Offenders and Miscellaneous Provisions (Bailiwick of Guernsey), Law 2013, you became subject to the notification requirements under Part 2 of that law, with effect from the guilty verdict on the 29<sup>th</sup> July, 2022. We must now set the notification period. The period is a precaution against any risk you may pose and can be further extended. You will be given a written notice, setting out all the requirements of being a notifier, some of which you will have already complied with, I hope, but in summary they are:

- You are required by Law to notify the police within 24 hours of your name, any other names that you use. Your address, your date of birth, Social Security number, passport details, bank account details and employment details. If asked to do so, for verification purposes you must allow your fingerprints, photograph and/or a DNA sample to be taken.
- You must notify the Police of any change of name, or home address at least within 24 hours in advance of the change, or within 24 hours if you have no prior knowledge of the change occurring.
- You must notify the Police of any address where you reside or stay for 7 days or longer, this means either 7 days at a time, or a total of 7 days in any 12 month period.
- You must notify the Police of your details every 12 months, on the anniversary of your initial notification even if there is no change in these details.
- You must notify the Police at least 7 days in advance, of any plans to travel abroad.

We set the notification period at 5 years from the date of the guilty verdict, 29<sup>th</sup> July, 2022.

### **Compensation**

We did consider whether it would be appropriate to make an order for compensation in favour of your victims but we have decided that it is not appropriate to make that order when you are going into custody and have been in custody for the last year.

### **In Summary**

1. 5 years' imprisonment, with effect from the 18<sup>th</sup> November, 2021 and;
2. 3 years' Extended Sentence Licence and;
3. 5 years' Notification period.

**Catherine Maureen Fooks**  
**Judge of the Royal Court**

**24<sup>th</sup> October, 2022**