

Sentencing remarks for four offences - Assault by penetration contrary to Section 12 of the Sexual Offences (Bailiwick of Guernsey) Law, 2020, maximum penalty life imprisonment. The second is of doing an act tending or intending to pervert the course of justice which is a common or customary law offence with an unlimited penalty. The third is of sexual assault contrary to Section 13 of the 2020 Law, maximum penalty 10 years and the fourth is of assault which is a common or customary law offence with an unlimited penalty.

[2025]GRC015

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 of work or school or any photograph likely to lead to the identification of the Victims in this matter, in their respective lifetimes. Any publication in any medium whether that is in writing or by broadcast or by means of the internet including social media is an offence.

These sentencing remarks have been amended for publication to protect the identities of the victims.

**ROYAL COURT
FULL COURT**

5th November 2024

**Before: Catherine Maureen Fooks, Judge of the Royal Court
and Jurats: Steven John Morris, Marilyn Jasmine King, Tina Jane Le Poidevin,
Simon Ernest Bodkin, James Robert Toynton, Richard Jeremy Wallen James,
Ian Michael Brown and Kay Parnwell.**

THE LAW OFFICERS OF THE CROWN

- v -

AEDAN JOHN DUPONT

**Advocate P F Cobb appeared for the Crown
Advocate S E Steel appeared for the Defendant**

JUDGE OF THE ROYAL COURT:

Background

Mr Dupont you have pleaded guilty to four Counts on two Indictments. The first offence is of assault by penetration contrary to Section 12 of the Sexual Offences (Bailiwick of Guernsey) Law, 2020, maximum penalty life imprisonment. The second is of doing an act tending or intending to pervert the course of justice which is a common or customary law offence with an unlimited penalty. The third is of sexual assault contrary to Section 13 of the 2020 Law, maximum penalty 10 years and the fourth is of assault which is another common or customary law offence with an unlimited penalty.

The facts can be set out briefly. You have admitted assault by digital penetration (Count 1) over the summer of 2022 of a girl, known to you, who was 14 at the time of the offence. On the night in question you bumped into the child and a couple of her friends and at your suggestion went to your house to “chill”. You shared a spliff and alcohol with them. The friends left between 4 and 6am. You and the child were sitting on the sofa. You began to touch her ankles. You ignored her protests and held her wrists, whilst you pulled down her leggings and knickers and digitally penetrated her vagina. In response to her repeated requests to stop, you angrily told her that you would hurt her mother if she did not shut up. She was scared. Without more, you then left the room. The child disclosed the assault about 6 months later. In Police interview, you denied any assault.

In November 2023, you saw a witness in the case and in another case then against you and asked to speak with her. You said that you would give her £20,000 not to speak, which she declined saying it was bribery (Count 2). You later told her brother about the offer you had made. You exercised your right to silence when interviewed. You were not charged until after you had committed the offences on the second Indictment.

In January 2024, you and the adult victim of your sexual assault (Count 3), known vaguely to you, were standing in a bar. You slapped the victim hard on the bottom causing her to turn round; she told you not to do that again to which you made no reply. Your actions caused her to feel upset and uncomfortable and to have a panic attack. Your victim informed a member of staff who informed the manager and had to assist to get you out of the premises as you were not co-operating. You returned 5 minutes later saying that you had left your jacket behind. That member of staff told you to leave and you became abusive. You formed your fist and attempted to punch her. In stepping back to avoid the blow she grazed her elbow. A male intervened so the blow did not connect. Again, you exercised your right to silence when interviewed on these matters.

The case history requires some mention but was fully outlined by Advocate Cobb. You were arrested in relation to Count 1 in February 2023. That matter proceeded, in the usual way, to committal to this Court and you entered a not guilty plea on 31 August 2023 and a trial was set for January 2024. In November 2023, the trial was postponed to enable a psychological assessment of you to be undertaken. In January 2024, you were charged with the offences of doing an act tending or intending to pervert the course of justice and that was in due course added to the first Indictment. You entered not guilty pleas to those matters which you maintained until September 2024, when the trial was to take place. Shortly before the scheduled trial you entered guilty pleas to the offences, based on a revised Indictment. In January 2024, you were charged with the offences in the second Indictment to which you entered guilty pleas in April 2024 when those matters reached this Court.

Your child victim has written a powerful and harrowing Victim Impact Statement, some of which was read out in Court. She describes the effect of your offending on her, the battles with her mental health, the effect on her day to day life and what will be lifelong ongoing issues for her. She said and that she remains disgusted and distraught.

You are a local man of 28 years of age. You were unemployed at the time of the offences. You have previous convictions, notably that on 3 June, 2021 the Alderney Court sentenced you for assaulting Police, resisting Police and driving whilst under the influence of alcohol. You received sentences of 3 months suspended for 2 years, a Community Service Order of 50 hours and a fine. The suspension period ended on 2 June, 2023 which means the assault by penetration offence was committed whilst you were subject to this suspended sentence. We note that you were brought before the Court for breach of the Community Service Order by non-compliance, which was ordered to continue and you eventually completed it. As the Community Service Order has been satisfied we are not concerned with any breach of that.

The offences of doing an act tending or intending to pervert the course of justice, sexual assault and assault were committed whilst you were on bail for the assault by penetration offence. You were

initially on conditional bail from June 2023 until 11 January 2024 when you were remanded in custody, in view of the subsequent charges.

Sentencing Considerations

We are going to take the offences in turn. We might in other circumstances have taken the sexual assault and physical assault offences together but the different discounts to be applied for pleas make that a complicated exercise. We will, of course, consider totality so that the end result is the same whatever the method of calculation.

The assault by penetration is the most serious offence. There are no specific guidelines in Guernsey for the sentencing of sexual offences generally. Whilst sentencing must always take into account the special circumstances in Guernsey, this Court has tended to look at the English Sentencing Guidelines, particularly as to the aggravating and mitigating factors of offences which are in similar terms to those you have committed. Assault by penetration carries a maximum sentence of life imprisonment and, under the English Sentencing Guidelines, is treated as only marginally less serious than rape. For that offence we take a basic starting point of 4 years before considering aggravating and mitigating factors.

We sentence you on the Prosecution facts and take no account of the different account you gave to the Probation Officer. There are aggravating factors, the most serious of which is the abuse of your position of trust but there is also the use of alcohol and drugs which were given to the child and an element of restraint and of threat to harm her relative. The offence was committed whilst on bail. In terms of mitigating factors it was one isolated incident and you did come to your senses during it. We set the revised starting point for this offence, therefore, at 5½ years.

Taking the next offence being the doing an act tending or intending to pervert the course of justice, this is a separate and extremely serious offence, in any event, as your Advocate rightly says, going to the heart of the criminal justice system. It easily crosses the custody threshold in its own right and would, in any event, merit a consecutive sentence. We accept that it was impulsive. We set the starting point at 1 year.

We turn next to the sexual assault of the woman in the bar; such behaviour crosses the custody threshold. It is in no way “playful”. This behaviour caused her particular upset, as it was not the first time she had been the victim of such behaviour by men, although not by you and was aggravated by your consumption of alcohol. We take a starting point of 6 months.

The final offence is the assault on a member of the bar staff doing her job, again, aggravated by the use of alcohol and we do not ignore the previous conviction for assault in 2021. She suffered an injury, a minor injury but an injury nonetheless. We take a starting point of 4 months.

Turning now to the issue of the suspended sentence Section 2(1) of the Criminal Justice (Powers to Suspend Sentence) (Bailiwick of Guernsey) Law, 1972 under which you were sentenced in June 2021 by the Alderney Court to 3 months’ custody, suspended for 2 years for assaulting a Police officer gives this Court the following options when dealing with a breach by you:

- activating the suspended sentence in full;
- activating it but reducing its term; or
- making no order.

The Law clearly states that there is a presumption that the sentence will be activated in full, unless the Court is of the opinion that it would be unjust to do so in view of all the circumstances which have arisen since the suspended sentence was passed, including the facts of the subsequent offence. If the sentence is activated in full or in part the Court has the power to order that any term be served with immediate effect, or concurrently, or consecutively to the sentence for the subsequent offence and if the

defendant has been on remand in custody pending trial with the effect from the date of such remand. Advocate Cobb read out the facts of the matters before the Alderney Court. There was a prolonged incident with the Police, including pushing, kicking out at and an attempted head butt. We are dealing with assault only. We note that the breach was by commission of an assault, the same basic offence, but a much more serious one and indeed a sexual one.

Mitigation

Plea

The Court must first consider the impact of your guilty pleas on sentence. Your pleas to the assault by penetration and doing an act tending or intending to pervert the course of justice offences were entered only just before the trial which left, in particular, the victim of the assault by penetration believing right up to that point that she would have to give evidence, the stress of which she sets out in her Victim Impact Statement. We do note, however, that there were other offences on that Indictment which did not proceed. We set the discount for your pleas to those two offences at 20%. There was no delay in you entering pleas to the sexual assault and assault matters and you are entitled to full credit for those pleas.

Personal Mitigation

The Court has considered carefully the very detailed and informative Social Enquiry Report prepared in respect of you. We have listened carefully to the sensible submissions of your Advocate. We have read the materials provided, including your impressive letter to the Court in which you explain how you are taking every opportunity to turn your life around. The letter from your sister was a sad and difficult read and it offered considerable insight into your life. In their many letters, your family and friends described a very different man from the one committing the offences, a man who has lost his way but is making the best of opportunities in prison. They are feeling the effects of your being in prison but are there to support you now and on your release. This is a positive but we sound a note of caution that your referees demonstrate no real consideration for your victims.

It is clear from the helpful Social Enquiry Report supplemented by the helpful Psychological Report and information from you, your family and friends that you have suffered traumatic experiences in childhood and beyond, that you have experienced difficulties with education and that you have issues, including ADHD, plus a recent diagnosis of ASD and a low-level of cognitive function. We note that, whilst none of these issues excuses your behaviour, the neuro-diversity and cognitive issues are considered relevant by your psychologist as to why you have offended in terms of your level of maturity and understanding your behaviour. Much work is required: to your credit you have made a start by trying to make sense of where you are and why.

Your work history is limited though this is largely explained by your difficulties and poor educational outcome. You do have a settled home.

We note the absence of previous convictions for sexual offences, although not for offences of assault but we note particularly that nothing at all is recorded against you until 2021 when you were 25 years old. It can be seen that you fell into a particularly unhealthy reliance on illicit substances and alcohol, as inappropriate coping strategies which explain but do not excuse your offending. It is also clear that your longstanding issues around sex and relationships also surfaced at that time. You described it as a period of self-destruction but with serious and tragic consequences for others.

You do express remorse and you have shown some capacity for insight into the harm you have caused all three victims. We consider your psychologist to be accurate when describing your insight as rudimentary: that is part of the work to be done. It is to your credit that you are making the best of prison and looking to improve yourself in a number of different ways. Work is going to be required to tackle the very serious issue of your alcohol misuse, which is a running theme throughout these sentencing remarks.

You are assessed as having a high risk of general re-offending and previous sanctions in the Community have been ineffective. You are assessed as having a medium or moderate risk of sexual re-offending but a serious risk of sexual harm to children and adult females which could be reduced with intervention if there is engagement. You are to be managed by MAPPA.

Sentence

Mr Dupont, as you yourself acknowledge, you have taken a serious wrong turn. Abusing a child in these circumstances is a serious breach of trust. That, coupled with sexually assaulting another woman, who was entitled to be out without fear of that sort of behaviour, shows that you are a danger and urgently need treatment to deal with your lack of sexual boundaries. Were those offences not enough, you have made things a whole lot worse by trying to pervert the course of justice and by assaulting a young woman who was simply trying to do her job. Bar staff do not need to deal with such foul mouthed loutish behaviour. Added to this, you were subject to a suspended sentence when you committed the penetration offence. We have tried to arrive at sentences which fairly reflect the offending whilst acknowledging your past difficulties and your efforts to turn your life around, efforts we encourage you to continue.

Your Advocate was right to concede that the custody threshold is passed and that immediate custody is the only appropriate sentence. He has indicated, on your behalf, no opposition to the Extended Sentence Licence conditions. Sexual offending causes lifelong harm to victims and must be punished and others deterred. Rehabilitation work is essential, that work takes time and cannot be completed within the period of immediate custody or the usual post-sentence supervision, so the Court agrees with the Probation Officer recommendation that an Extended Sentence Licence is required and with the suggested additional conditions.

In sentencing you we have taken into account the totality principle both in relation to the duration of sentences, the discounts applied and an element of concurrency. In terms of the breach of suspended sentence, we have concluded that it is not unjust for it to be activated in full.

Taking into account all of the above the sentences will be as follows:

Count 1 - assault by penetration – immediate custody of 40 months.

Count 2 - doing an act tending to pervert the course of justice – 7 months' immediate custody consecutive.

Count 3 - sexual assault – 3 months' immediate custody consecutive.

Count 4 - assault – 2 months' immediate custody, concurrent.

That makes a total of 50 months for those offences to which must be added the 3 months for the activation of the suspended sentence making a total sentence of **53 months** that is **4 years and 5 months** which is to take effect from 11th January 2024.

Extended Sentence Licence

In terms of the Extended Sentence Licence, as I have already said, the Court considers this to be appropriate and the Court is imposing that extended period of imprisonment in relation to each of the two sexual offences. The sentence has two elements; the custodial term which I have already told you will be for the sexual offences (40 months plus 3 months), followed by an extension period after your release throughout which you will be subject to the Extended Sentence Licence. The extension period

is for the period recommended of 5 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 a 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. It is very important that you talk through all of these matters carefully with your Advocate. There is a lot to take in here and it is very important that you understand exactly what is required.

The standard conditions of an Extended Sentence Licence are as follows:

1. to be well behaved and 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 reoffending and help you to resettle successfully into the community;
2. to keep in touch with your supervising officer in accordance with any instructions you may be given;
3. if required to receive visits from your supervising officer at your home;
4. 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 for one night) away from the approved address;
5. to undertake only such work (including voluntary work) approved by your supervising officer and notify him or her in advance of any proposed change; and
6. not to travel outside the Bailiwick of Guernsey without the prior permission of your supervising officer (which will be given in exceptional circumstances only).

Obviously, Mr Dupont those conditions are on the Extended Sentence Licence so they are not something coming into effect now. Additional conditions are going to be added, as recommended in the Social Enquiry Report which the Court considers necessary, not oppressive and as being proportionate. They are clear and they are as follows:

1. to comply with any requirements specified by your supervising officer for the purpose of ensuring that you address your sexual offending behaviour problems;
2. not to have any contact directly or indirectly by any means with any female child under the age of sixteen years without the prior permission of your supervising officer, other than such contact that is inadvertent or not reasonably avoidable in the course of lawful daily life;
3. notify your supervising officer of any developing personal relationships, whether intimate or not, with any person you know or believe to be resident in a household containing female children under the age of 16. This includes persons known to you prior to your conviction with whom you are renewing or developing a personal relationship; and
4. not to have any contact directly or indirectly by any means with the named victims of the sexual offences in this case without the prior permission of your supervising officer.

Notification

You have been convicted of a relevant offence under Section 2(3) of the 2013 Law and became subject to the notification requirements under Part II of that Law on 25 April, 2024 in relation to the sexual assault and 18 September, 2024 in relation to the assault by penetration. We must now set the

notification period and we follow the recommendation of the Probation officer that it should be for 10 years which runs from those two dates which I have just given you.

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 the requirements, in summary they are:

- Within 24 hours of your release (if not already provided) you must provide the police with your personal details as set out on the notice you will be given;
- after your release, you must notify the Police of any change of name or home address at least 24 hours in advance of the change occurring, or within 24 hours if you had no prior knowledge of the change occurring;
- after your release, 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; and
- after your release, you must notify the Police at least 7 days in advance of any plans to travel abroad.

Where those conditions are in conflict with some of the conditions under the Extended Sentence Licence, the Extended Sentence Licence conditions are the ones that apply for so long as that is running.

So the total sentence is:

- immediate custody of 4 years 5 months with effect from 11 January 2024. (The total term of immediate imprisonment for the new offences is 50 months. That must be increased to 53 months when taking into account the activation of the suspended sentence);
- an Extended Sentence Licence of 5 years regarding the two sexual offences, and;
- notification of 10 years.

Catherine Maureen Fooks
Judge of the Royal Court

5th November 2024