

Between

AG

-v-

Stefan O'Dean

Sentencing

Section 93 of the Welfare of Children Ordinance 2008 & Section 1 Sexual Offences (Amendment) Act 1992 apply to this ruling. Nothing may be published if it is likely or calculated to lead members of the public to identify any complainant or person under 18 involved in these proceedings

1. Mr O'Dean you fail to be sentenced for 7 matters today which I will deal with in turn when outlining the facts upon which you will be sentenced.
2. I will have regard to the sentencing note prepared by the prosecution, the pre-sentence report and the sentencing note prepared by Mr Scott. I will take into account all matters said in court today and you will get full credit for your guilty pleas.

AB

3. AB was 13 years old when you abused her. In count 1 you had sexual intercourse with her and had her perform oral sex on you. In count 2 you again had sexual intercourse with her and you performed oral sex on her.
4. Count 3 is the first sexual contact between you and AB and you kissed her.
5. Count 4 is the messages between the two of you where you flattered her, told her you loved her, asked for sex and requested and received indecent pictures of her.
6. It is the behaviour in count 4 that the Attorney General asserts amounts to grooming behaviour which is something the defence dispute.
7. The messaging starts after count 3 occurred and it is clear that you had had sexual intercourse by Saturday the 30th of March having regard to the text messages of the 31st of March.
8. Count 2 happened on a Saturday after AB had got internet in April and as you had by then communicated by Messenger it is clear that offence occurred from Saturday the 6th of April onwards. Prior to that date there was significant chat by text and Messenger which can only be described as grooming when applied to a child. You flatter her, tell her you love her and ask for sex. These were persistent actions by someone trying to persuade somebody else to

engage in sexual activity. It is also clear that AB was flattered by your attentions having regard to the tone of her responses and you took advantage of that.

9. It is also worthy of note that in your PSR it is clear that you had no real feelings for AB which to my mind demonstrates that your expressions of love were hollow and you were motivated solely by your desire to have sexual intercourse with AB. I have no hesitation in finding that for count 2 there is ample evidence of grooming. For count 1 there is less evidence of grooming but the text messages before the 30th of March 2024 contain expressions of love from you.
10. I will treat count 2 as the most serious as it falls squarely into category 1A by virtue of penetration of the vagina combined with grooming. I will start that sentence at 5 years. There are no aggravating factors having regard to the guidelines and your best mitigation is your youth and obvious immaturity. It is right that you clearly had no insight into the seriousness of your actions and the harm this type of behaviour can cause. Having read the pre-sentence report I do not believe that even now you have appreciated the seriousness of what you have done.
11. Having regard to your youth and immaturity the sentence is reduced to 4 and a half years. With credit for plea that is 3 years. I then discount further by 15% to have regard to prison conditions making the sentence 30 months
12. For count 1 there was limited grooming and therefore it is necessary to differentiate this offence from count 2 even though it also falls into category 1A. I will start at 4 years and reduce further by 6 months to reflect your youth and immaturity making the sentence 3 and a half years. With credit for plea the sentence is 28 months and with a 15% reduction for prison conditions that is 24 months.
13. Count 3 involves kissing. There was no grooming but this can be seen more as part of you developing a relationship with AB to later go on to abuse her. I do not see that this passes the custody threshold.
14. For count 4 images were received by you and also solicited placing this in category 1A. Given the small size of the community receiving images of local underage girls is particularly serious as this court has indicated by amendment of guidelines for possession of indecent images. I treat the fact that the images solicited and received were of a local girl increases the starting point to 21 months.
15. This was sustained and persistent communication as an aggravating factor but I do though take into account your immaturity and age at the time of the offences and reduce the sentence to 20 months. There is a discount for the guilty plea to 13 months and a further discount to 11 months having regard to prison conditions.
16. It is suggested that this sentence should run concurrently to counts 2 and 1 as it represents the grooming. That ignores the gravamen of the offence which is the soliciting and receiving of indecent images which has nothing to do with grooming.

CD

17. CD was just 12 years old when you abused her. You met her in a secluded spot and attempted to penetrate her vagina with your penis but you were not

able to. Instead you rubbed your penis against her vagina. Your intention before meeting her was to have penetrative sexual activity as evidence by you having with you and wearing a condom. You were 17 at the time. This is count 6.

18. A year later, when you were 18, you started to communicate with her in a sexual way and this is count 5. This sexual communication included the request for, and receipt of, indecent images of CD.
19. For count 6 I start by having regard to what sentence you would have received had you been dealt with when you were 17. I do this by having regard to the guidelines for sentencing children and young people and also the guidelines for sentencing children and young people for sexual offences.
20. For count 6 had your victim been older this might have been a case where the offence did not pass the custody threshold. However she was 12 and your intention before you went to meet her was to have sex and you attempted penetration. There was also, having regard to your relative ages, a significant disparity in age. This is a case that clearly called for a starting point of custody had you been sentenced when aged 17.
21. I look at the guidelines for adults to assist me as to length. There was no penetration but not for want of trying. I do not agree with the Attorney General that there was deliberate isolation of the victim within the meaning of the guidelines. You and your victim agreed to meet somewhere private and there is no suggestion that this was done other than to afford privacy.
22. Having regard to your intention to have penetrative sexual activity I will treat this as a high end category 3B with a starting point of 3 years. Had you been sentenced at age 17 for this offence I believe the sentence would have started at 2 years given your age. With credit for plea this is 16 months and then a further discount for prison conditions reduces this to 13 months.
23. I accept that it might have been possible, had this been the only matter before the court, to suspend the sentence or impose a probation order as a direct alternative to custody. However that is not the case now given the risk that you pose to young women.
24. For count 5 this is particularly serious in that indecent images were solicited and received. In the same way as I did for AB I start the sentence at 21 months. This was persistent and sustained communication aimed at having sexual intercourse but I accept that your age is to be taken into account. This reduces the sentence to 20 months. With credit for plea that is 13 months and with a reduction for prison condition the sentence is 11 months.

EF

25. This offence is count 7 and involves a sexual communication with a child which involved pestering EF for sex. I agree with the parties that this is a 2B offence with a starting point of 6 months. Credit for your age and immaturity reduces that to 5 months, then 3 months for the guilty plea. Given how short the sentence is, and that the credit for plea allowed is more than one third, there is no discount for prison conditions.

Total Sentence

26. Before considering totality the sentences are as follows:

Count	Sentence
1	24 months
2	30 months
3	No penalty
4	11 months
5	11 months
6	13 months
7	3 months

27. Having regard to totality counts 1 and 2 will run concurrently. Count 6 will run consecutively to counts 1 and 2 making 43 months. Counts 4, 5 and 7 will run concurrently to one another but consecutively to the 43 months making a total of 54 months. I believe that this sentence reflects the totality of the offending.
28. I run the communication with a child offences consecutively as two of them involve the request for, and receipt of, images of children on the island. It is the request and receipt of images that places the offences for AB and CD within category 1A and this aspect of the offence does not form part of the grooming process for AB. For CD the offence is not linked to count 6 and for EF it is a stand-alone count.
29. There is a particular problem of this type of offending on St Helena, and images of this type do not go away due to them being stored on devices and in the cloud. They are easy to share and the person depicted has no control as to where they might end up. In a small community the impact of knowing that someone has indecent images of you is significant.
30. The final sentences are as follows:

Count	Sentence
1	24 months
2	30 months concurrent to count 1
3	No penalty
4	11 months concurrent to counts 5 and 7 but consecutive to count 6
5	11 months concurrent to counts 4 and 7
6	13 months consecutive to counts 1 and 2
7	3 months concurrent to counts 5 and 6
Total	54 months

31. This sentence is too long to suspend and the offences too serious to consider a non-custodial sentence

Sexual Offences Prevention Order

32. Having regard to the risk of harm that you pose and that this was clearly a campaign by you to have sex with a number of children it is my view that a Sexual Offences Prevention Order is necessary to protect underage girls from significant harm from you. You clearly have no insight into the danger that you pose to them and until this is addressed to the satisfaction of this court the order will continue.

33. The order is in the following terms:

Until further order of this court you are prohibited from:

1. Contacting directly or indirectly any female child under the age of 16 other than that which:
 - i. is inadvertent in the course of everyday life; or
 - ii. is with the consent of the child's parent or guardian who is aware of this conviction and is with the written consent of Children's Social Care.
2. Using any device capable of accessing the internet unless:-
 - i. you notify your monitoring police officer of such access or use or possession;
 - ii. it has the capacity to retain and display the history of internet use; and
 - iii. you make the device available on request for inspection by a Police Officer.
3. Without reasonable excuse, failing to hand over or refusing to submit for examination by a police officer any owned mobile phone, laptop, computer or internet enabled device (including necessary PIN, password or unlock codes).
4. Deleting any internet search history or using any software or computer function to mask or hide or otherwise do anything yourself to delete or prevent the recording of any internet browsing history or messaging however so received on any owned electronic device which is capable of accessing the internet.
5. Owning or possessing more than one mobile phone or sim card.

Duncan Cooke
Acting Judge of the Supreme Court

30th September 2024