MC/CRIM/04/24

SENTENCING REMARKS

Rex

V

Tyler Richard Hobman

before
HHJ Malcolm Simmons

GIVEN ON

04 November 2024

Heard on 04 November 2024

Representation	Representation
Crown	Mr Stuart Walker
Defence	Mr Damian Sabino

These sentencing remarks will be published until 04 August 2027 for this reason:

- *As per Schedule 10 of the Criminal Procedure Evidence Ordinance, 2014, the conviction of the defendant will be considered spent.*

Any concerns about the publication or content of this document will be placed before the Judicial Officer(s) for consideration.

IN THE FALKLAND ISLANDS MAGISTRATES COURT **Case No. MC/CRIM/04/24**

BETWEEN:

REX

-v-

TYLER RICHARD HOBMAN

SENTENCING REMARKS

Introduction

1. Mr. Hobman, you appear before the court today for sentencing, having been convicted on 25th September 2024 on the following counts:

(a) Count 1 that between the 31st day of October 2023 and the 3rd day of April 2024, being a person over the age of 18 years, you intentionally touched [AB], the touching was sexual, [AB] was aged under 16 years, and you did not reasonably believe that [AB] was aged 16 years or over, an offence under section 211(1) of the Crimes Ordinance 2014 and

(b) Count 2 that between the 31st day of October 2023 and the 3rd day of April 2024, being a person over the age of 18 years, you intentionally touched [AB], the touching was sexual, the touching involved penetration of [AB's]vagina by your penis, [AB] was aged under 16 years, and you did not reasonably believe that

[AB] was aged 16 years or over, an offence under section 211(1) of the Crimes Ordinance 2014.

2. The maximum sentence for an offence of sexual activity with a child under section 211(1) of the Crimes Ordinance 2014 is 10 years imprisonment where the activity does not involve an act of penetration, and 14 years imprisonment where the activity does involve such an act.

Guidelines

3. The appropriate sentencing principles are set out in the Sexual activity with a child/Causing or Inciting a Child to Engage in Sexual Activity guidelines, as well as the Overarching Sentencing Guidelines.

Victim

4. I have not seen a victim personal statement.

5. Your victim was fifteen years of age at the time of your offending. I recognise that, as your victim gets older and becomes more mature, she may realise that she was abused and that could result in psychological harm. I agree with the Probation Officer that the impact of this type of offending can have devastating consequences, especially within a small community like the Falkland Islands.

Defendant's Personal Circumstances and Probation Report

6. You were born on 12th April 2003. You are now 21 years of age.

7. You are currently employed in the construction industry and it appears you have worked since leaving school. You live in rented accommodation. As I understand it, you have no savings and some debts.

8. I have read the Pre-Sentence Report of the Probation Service dated 21st October 2024 for which I thank Ms. Robinson. I have carefully considered the various sentencing options available to me. I have taken that report into account in arriving at an appropriate sentence.

9. You are assessed as posing a low risk of further offending, and a medium risk of further sexual offending. You are assessed as posing a medium risk of serious harm to children, which means that further such offending is unlikely to occur without a change in circumstances. Circumstances in which risk is likely to increase are: your having regular unsupervised contact with children aged fourteen or fifteen that you view as potential partners; your alcohol use increasing; losing your employment; and with difficult circumstances coupled with poor emotional management.

10. I have considered the various sentencing options and how potential risks and harm could be ameliorated if a community order were imposed.

11. I have also read two reports of a psychiatrist, Dr. C M Green, dated 26th and 30th September 2024. He describes you as someone of low intelligence, who since childhood has tended to lead an isolated lifestyle and has difficulty dealing with social situations. Dr. Green said you may well have autistic traits but he made no diagnosis. He describes a past history of alcohol abuse and a more recent history of depressed mood, although you have not sought treatment for depression.

12. Dr. Green describes you as a vulnerable individual, who might have difficulties in coping with a custodial sentence.

SENTENCE

13. Mr. Hobman, these are serious offences, one involving the penetration of [AB's] vagina with your penis.

14. When you committed these offences you were 20 years of age and [AB] was 15 years of age. What is more, you knew that she was only 15. You cultivated a relationship with [AB] that culminated in sexual contact, and you encouraged her to hide your relationship from her parents.

15. You have no previous convictions. You have shown remorse. You have been in gainful employment since leaving school. You are described as vulnerable and of low intelligence. You have difficulty forming relationships with adults and tended to lead an isolated lifestyle. In sentencing, I have taken into account the reports of Dr. Green.

16. You were aware at the start of January 2024 of social services and police interest in your relationship. You were not spoken to directly at that stage by police or social services. I have taken that into account.

Plea Reduction

17. You appeared before the Summary Court on 7th August 2024. At that time, you were represented. On that occasion, you entered 'not guilty' pleas to both charges and the case was allocated to the Magistrate's Court for trial. When this matter came before me on 25th September 2024, you entered guilty pleas to both charges.

18. I have considered the stage in the proceedings at which you entered your guilty pleas and the circumstances. I have also considered carefully the submissions of Mr. Sabino.

19. Count 2 is the more serious and I will deal with that first.

20. In respect of Count 2, there was penetration of [AB's] vagina with your penis. That puts harm in Category 1. The age gap of five years between you is, in my view, significant. You were working, living in your own property, and managing your own bills. [AB] was at school, living at home and financially dependent on her parents. Although these factors could put your offending in category A, having taken into account the opinion of Dr. Green, on balance, your offending is more appropriately in category B. The starting point for an offence in 1B is 1 year custody, with a category range of between a high level community order and 2 years custody.

21. In respect of count 1, the sexual activity involved kissing and love bites. That puts harm in Category 3 and culpability into Category B. That gives a starting point of a medium-level community order with a range of a low-level community order to a high-level community order.

22. Mr Hobman, the starting point on Count 2 after trial would have been 1 year custody. I have considered aggravating and mitigating factors. I have considered carefully the submissions of Mr. Walker and Mr. Sabino.

23. On Count 2, I impose a sentence of 12 months imprisonment that I reduce to 9 months, taking into account your guilty pleas. I am not giving a 1/3 discount because the guilty pleas were not made at the first opportunity. Instead, I am applying a ¼ discount.

24. On Count 1, any order I make would be to run concurrently with the sentence on count 2. The only order I could make on count 1 is a Community Order. Given that I am imposing a custodial sentence on Count 2, a community order would serve no practical purpose.

25. Regarding the principle of totality, I therefore consider the sentence imposed on count 2 to be one that reflects the criminality globally and I will not impose a separate penalty under Count 1.

26. The sentence I impose is **9 months custody.**

27. I have to consider whether an immediate custodial sentence is inevitable. I have carefully considered the guidelines for suspending a sentence. Sex with a child under 16 is, quite rightly, taken very seriously. I would be failing in my responsibilities if I did not impose a sentence that, while proportionate to the offending, served to address the various purposes of sentencing, including deterrence.

28. Therefore, after very careful consideration, I have decided not to suspend the sentence.

29. I recognise that the impact of a custodial sentence will be serious. You have not previously been in custody and, given your age, maturity levels and other vulnerabilities, this is likely to be difficult for you. I also recognise that you could potentially lose your accommodation and your employment.

30. I am not making a compensation order because of the immediate prison sentence.

31. The prosecution have not asked for a Sexual Harm Prevention Order and I do not consider it necessary or appropriate to impose one in the circumstances.

32. You will be subject to the notification requirements for **10 years**. You must keep the police informed at all times of your personal particulars, the address at which you are living, and any alteration in the name you are using.

33. The defendant to pay prosecution costs of £250 within 21 days.

HHJ Malcolm Simmons

Senior Magistrate

4th November 2024