

EDITORIAL NOTE: NAMES AND/OR DETAILS IN THIS JUDGMENT HAVE BEEN ANONYMISED

**NOTE: PUBLICATION OF NAME, ADDRESS, OCCUPATION OR IDENTIFYING PARTICULARS, OF COMPLAINANT PROHIBITED BY S 203 OF THE CRIMINAL PROCEDURE ACT 2011.**

**NOTE: PUBLICATION OF NAME, ADDRESS, OCCUPATION OR IDENTIFYING PARTICULARS, OF DEFENDANT PROHIBITED BY S 201 OF THE CRIMINAL PROCEDURE ACT 2011.**

**IN THE DISTRICT COURT  
AT TIMARU**

**CRI-2015-076-001133  
[2016] NZDC 5190  
THREE STRIKES WARNING**

**THE QUEEN**

v

**PETER ROCK**

Hearing: 24 March 2016  
Appearances: M Beattie and A R McRae for the Crown  
D Brown for the Defendant  
Judgment: 24 March 2016

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**NOTES OF JUDGE J E MAZE ON SENTENCING**

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[1] Peter Rock, you have pleaded guilty to one charge of indecent assault and one of sexual violation. Both are laid as representative charges and they span a period of about 18 months from 1 March 2014 to 31 August 2015. The victim was a child of 12 at the time and related to you. You were in a position of trust and a position of authority. The victim stayed frequently with you and your wife and the offending is said to have taken place on or about 30 times in relation to the indecent assaults and on or about five or six occasions in relation to the sexual violation by digital

penetration. You yourself freely admitted that there were two other matters which had occurred in Australia within the offending period. The indecent assaults involved various acts from kissing, touching her breasts, kissing her on the mouth and rubbing your hand over her vagina on four occasions. When interviewed as I say, you increased the number of offences with digital penetration by two. So in a very simplistic way I am looking at something like 38 acts which constitute either one offence or the other over a period of 18 months.

[2] The victim impact statement records that the victim was always afraid of you during this period and afraid of what contact would result in. She says that she feels really angry with you. She says she will never trust you again. She says she was entitled to be loved and protected by you, not your victim. Her victim impact statement does not cover what is now well established in relation to offending of this kind and that is that she will carry the emotional consequences of it for the rest of her life. She may be able to deal with it in different ways at different stages in her life but it will remain with her to her death bed. Also, as you have heard your son's victim impact statement today, it has had very serious consequences for the family as a whole.

[3] You were convicted in 1991 of very similar offending. You received then a short term of imprisonment and so although I have not been given the facts on that, I must assume that it was a less frequent series of assaults. That is relevant. Although through your counsel you do not ask for any credit for good character, I am given a letter from others who know you and in other respects respect you; it indicates that they will continue to support you and your wife and they are aware of many people that you have helped. But it is inescapable that it is part of your character that in 1991 you committed similar offending and for 18 months you committed that kind of offending again.

[4] The interim order for suppression of name is now converted to a final order in the interests of the victim's rights and I accept that you have not sought that order for any other reason than her protection.

[5] The Crown submits that the aggravating features of this offending include the scale of the offending, reminding me that both of these are representative charges. As I have said, in a simplistic way there are about 38 times over 18 months that you have offended against this child. Some certainly are lower end; all were done for your sexual gratification. The Crown reminds me that the impact on the victim (and I have referred to the likely emotional scarring) is an aggravating factor. The breach of trust is obviously an aggravating factor and you have heard a family member speak about that today. The victim was vulnerable in two ways and I accept that is an aggravating factor. She was vulnerable by reason of her age and she was vulnerable by reason of her relationship to you. You were in a position of authority. The Crown refers to premeditation and planning. That that is not really disclosed in the way that is suggested, as grooming, in the summary of facts. You say that it began as opportunism and it escalated to regularity when there was no real objection taken. Apart from the fact that that shows remarkable lack of insight into your victim's position, it reinforces your self-focus. She says she was frightened of you every time she was with you during this period, frightened of what you would do. In your self-focussed way, plainly you were unable or unwilling to recognise her expressions, mute though they were, of fear.

[6] The Crown reminds me of the guidelines in *R v AM* [2010] 2 NZLR 750 CA and the banding exercise. The *AM* factors present here, the Crown says, are vulnerability of the victim, scale of offending and grooming. The Crown submits that band 2 covers a period of four to 10 years and the Crown seeks a starting point of between four and a half and five and a half years with an uplift for previous offending and a quarter discount for plea.

[7] Mr Brown has really said all that can be said for you. I do bear in mind that there are others in this community who know you in other ways and who are surprised by your offending. Although your offending may have begun as opportunism, it became systematic because of the scale of it. You were and are remorseful, I accept that. You do not seek credit for additional remorse. You were fully co-operative and you have confessed to other offending with this girl. Mr Brown accepts a starting point of four and a half to five and a half years but asks

that that be kept at the lower end of that range and submits the apology indicating your level of remorse.

[8] I have to say because of the sheer scale and repetition of this offending, I consider the appropriate starting point to meet the aims of sentencing is five and a half years. Clearly, personal denunciation and personal deterrence are vital in sentencing in this case because you have been in this position before. Accountability is the other primary factor along with protection of the community. Given those circumstances and objects of sentencing as a whole, the starting point must be five and a half years.

[9] I accept Mr Brown's argument that the previous conviction is a very long time ago but it does need to be borne in mind that you were given a great many forms of help last time to try and reduce the risk that you would be in this position again and the point of recognising previous convictions is the recognition of recidivism. The repetition of the risk to the community. In the circumstances I do consider that I am obliged to provide an uplift for your previous conviction and I would put that at six months. That takes me then to six years' imprisonment.

[10] I accept that you are remorseful. I accept that you have expressed that promptly by entering a plea and I accept the discount should be one-quarter. I do not consider there is anything else that I can allow for in that exercise. That being the case, the discount is 18 months.

[11] The end result then is that on both of these charges, you are convicted. You are sentenced to imprisonment for four years and six months on each, concurrent. A final order is made for suppression of your name and any identifying details.

[12] Given your convictions now for indecent assault and unlawful sexual connection, you are now subject to the three strikes legislation. I am obliged to warn you of the consequences of being convicted of any other serious violent offence. You will be given a written notice which will outline those consequences and which will list what are serious violent offences. This is the warning. If you are convicted of any serious violent offences other than murder committed after this warning and if

a Judge imposes a sentence of imprisonment, you will serve that sentence without parole or early release. If you are convicted of murder committed after this warning, you must be sentenced to life imprisonment to be served without parole unless that would be manifestly unjust. In that event the Judge must sentence you to a minimum term of imprisonment.

J E Maze  
District Court Judge