

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

**ORDER PROHIBITING PUBLICATION OF NAME(S), ADDRESS(ES),  
OCCUPATION(S) OR IDENTIFYING PARTICULARS OF  
WITNESS/VICTIM/CONNECTED PERSON(S) PURSUANT TO S 202  
CRIMINAL PROCEDURE ACT 2011.**

**IN THE DISTRICT COURT  
AT INVERCARGILL**

**CRI-2015-025-000356  
[2017] NZDC 3125**

**THE QUEEN**

v

**CRAIG ANTHONY HALL**

Hearing: 15 February 2017  
Appearances: M G McClenaghan for the Crown  
S G Vidall for the Defendant  
Judgment: 15 February 2017

---

**NOTES OF JUDGE M J CALLAGHAN ON SENTENCING**

---

[1] Craig Anthony Hall, you have been found guilty by me in respect of three charges: one of assault with intent to commit sexual violation against the victim, Lydia; and two charges of indecent assault against the victim, Jane, one by the placing of your hands on her breast, the other the placing of your hands in her crotch area.

**Facts**

[2] The factual findings that I made in respect of the assault with intent to commit sexual violation were that on the day of the incident you were leaving

[location deleted] and at the time of leaving you became involved in a verbal altercation, which resulted in the victim walking away from the tavern with you onto [name of street deleted]. When the two of you got to the entrance of an alleyway next to [location deleted], you kissed the victim. She rejected this advance from you. You then physically picked her up off her feet and moved her down the alleyway to an area where the trees and bushes extended out over the fence. You then held her clothing at the back to restrain her, and put your other hand into her tights and underwear and pulled them down. You then undid your own clothes and attempted to put your penis into her vagina, but you were unsuccessful because she managed to hold her thighs tight together and then eventually leant forward, meaning that you could not penetrate her. At that time your penis was positioned at the entrance way to her vagina and you were moving in an endeavour to penetrate her. During this incident, she was asking you to stop and to not do it, but she was unable to physically stop you because of the way she was being held.

[3] You maintained that this was a consensual encounter between you, but I have rejected that explanation.

[4] In respect of the indecent assault charges, the findings were that while the victim was seated at and playing the piano, you have reached over from behind her and placed your hand in her groin area. You then started to rub her in that area. This lasted for a very short period of time of about five seconds. She immediately got up from her position and left and went to a bedroom which was her friend's bedroom. She stayed there for a period of time before deciding to leave and rejoin the others in her group. She had to come back through the lounge area and was again confronted by you. At that stage you grabbed her by the breast and squeezed it and made the comment to her that she should come to your room later that night. She did not say anything in response but immediately left the house and went and met up with her boyfriend.

### **Previous history**

[5] You have some previous convictions of assault, but nothing of a sexual nature in your history.

## **Victim impact**

[6] The victim of the assault with intent to commit sexual violation has filed a comprehensive victim impact statement. In that statement she says that she was left as a shell of her former self. She has become ashamed and disgusted with herself about what had happened and she is also scared of you, especially after the incident [details deleted]. She said she initially tried to hide the experience deep in her mind, but eventually it came out and destroyed her relationship. She believed that you continued on with life as if nothing had happened, while she was enduring a memory of it within herself. She is now fearful of everybody and has taken herself away and lives in fear. She has been on medication for anxiety and depression. She is seeing a counsellor on a regular basis and she felt betrayed because she saw you as a friend prior to the incident occurring.

## **Pre-sentence report**

[7] I have read the pre-sentence report. It seems to indicate that you would be at moderate risk of reoffending, and it says that you deny that the offending occurred, and you maintain your innocence. You have no remorse at all for what has occurred.

## **Submissions**

[8] The Crown have filed written submissions, as has your counsel, Ms Vidal. The Crown says in respect of the assault with intent to commit sexual violation, that the aggravating feature there was the force used to restrain the victim. In respect of the indecent assaults, the aggravating features there are that there was an age difference and that she was a vulnerable victim. They refer me to a number of cases and say that the sentence starting point should be on the basis of a four year starting point because of your actions, because of the fact that the clothing was taken down, that both your genitals and hers were exposed, and that for that reason the cases that are referred to suggest that a starting point of four years is appropriate.

[9] In respect of the indecent assault, they maintain that the two instances warrant an uplift of 15 months, but with a totality consideration that should be only

12 months, and that the end sentence that I should be imposing upon you would be one of five years' imprisonment.

[10] Your counsel has filed submissions and says that the starting point for the assault with intent to commit sexual violation charge should be one of three years on the basis that it was an opportunistic offence, it was short, there was no threat of violence, there was minimal force used, there was no ejaculation, there were no long lasting physical injuries, that it was not a breach of trust, and that the victim was not particularly vulnerable.

[11] In respect of the indecent assault, she submits that it should be a concurrent sentence because the indecency occurred on top of the clothing, they were fleeting incidents, and that I should also give you a discount because you have no prior sexual offending and you were on restrictive bail conditions during the course of the remand period.

### **Purpose and principles of sentencing**

[12] In sentencing you, I need to hold you accountable. I need to promote a sense of responsibility. I have to take into account the interests of the victims, denounce and deter you, and also consider your rehabilitation and reintegration into society. Here, there was an abuse of trust and there was victim vulnerability.

### **Starting point**

[13] The lead offence in sentencing you has to be the assault with intent to commit sexual violation. In my view, the aggravating features are that there was some force used and there was a repeated request by the victim for you to stop. She was unable to physically repel you and it only stopped because of the fact that she managed to bend forward to stop penetration. The victim on this occasion was a vulnerable victim because of the fact that she had had a dispute with her then current partner and was obviously with you on the basis that she was alone and seeking some comfort from you in respect of that.

[14] In respect of the indecent assault, the aggravating features are that there was an age difference and there was victim vulnerability.

[15] Taking those factors into account, for the lead offence I assess the starting point at one of three years and three months' imprisonment.

### **Adjustments**

[16] In respect of the indecent assaults, they are separate offending and I am going to give you a three months uplift for those indecent assaults. I form that view on the basis that, on their own, they would not warrant a sentence of imprisonment, but may well warrant a sentence of community or home detention. But because of the vulnerability, the age difference, and the fact that there were two instances within a very short space of time, an uplift is appropriate in sentencing you on a totality basis.

[17] The end starting point that I reach is one of three years and six months' imprisonment.

[18] You have no remorse so I cannot give you any discount for that. You were on restrictive bail conditions which were warranted, but I will give you a two month discount in respect of that.

### **Result**

[19] For that reason, the end sentence would therefore be one of three years and four months' imprisonment, and that is the sentence that I impose on all three charges.

M J Callaghan  
District Court Judge