

EDITORIAL NOTE: CHANGES MADE TO THIS JUDGMENT APPEAR IN [SQUARE BRACKETS].

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

NOTE: PUBLICATION OF NAME(S), ADDRESS(ES), OCCUPATION(S) OR IDENTIFYING PARTICULARS, OF APPELLANT(S)/RESPONDENT(S)/ACCUSED/DEFENDANT(S) PROHIBITED BY S 201 OF THE CRIMINAL PROCEDURE ACT 2011.

**IN THE DISTRICT COURT
AT MANUKAU**

**CRI-2016-092-005392
[2017] NZDC 22054**

THE QUEEN

v

[MARK BUNN]

Hearing: 28 September 2017
Appearances: K Tuialii for the Crown
M Edgar for the Defendant
Judgment: 28 September 2017

NOTES OF JUDGE J C MOSES ON SENTENCING

[1] Mr [Bunn], you are for sentence today before me in relation to two charges, they are charges of doing an indecent act on a young person, and also a charge of sexual violation by unlawful sexual connection. Both of those charges arise out of a single incident that occurred. You came before me and a jury, and the jury returned verdicts of guilty in relation to both charges on 26 July this year.

[2] The brief facts that were established is that the victim in this matter is your granddaughter, though it has emerged in recent times that is non-biological relationship, but in reality in terms of the relationship you had with her, it was that of a grandfather and granddaughter.

[3] On the occasion that the offending occurred you had taken the victim upstairs into a room, you had removed your clothes and lay down on a bed and placed a number of chocolate peanuts on your body leading down to your groin. You required the victim to suck the peanuts from your body. You grabbed your penis with one hand and shook it close to her mouth. Then you removed her clothing, placed a trail of peanuts down her naked body leading to her vagina, which you then performed oral sex on her for approximately 20 minutes.

[4] You gave evidence and, can I say your somewhat bizarre explanation, was that you had been playing strip poker with your granddaughter, but that nothing else happened. That explanation was not accepted by the jury and I do not accept it either.

[5] I have read the victim impact statements that have been provided to the Court by the victim and her mother and father. I am aware that you have read them also and they make very compelling and sad reading. Clearly to an extent your offending has created victims other than your granddaughter. They include her parents and to an extent also, they include your wife. The victim, your granddaughter, said that she felt it was like her own fault. It is of course not her own fault; it is your fault and the sooner that you accept that the easier it will be for everyone to move on. It has led her to despair; she has become scared, anxious and vulnerable. You have, in the words of one of the reports, "broken the hearts of your family."

[6] I do note the letter that you have written and I have read that this morning. That however, does have to be seen in the light of your continued denial of any wrongdoing.

[7] The Sentencing Act 2002 requires me to hold you accountable, that means you have to, as I am sure you do as you are standing there, realise that there are consequences for actions. I must also impose a sentence that deters, that means puts you off from this kind of behaviour and others, and also a sentence that publically

denounces this behaviour. In this case there are clearly aggravating features that are present. The significant features are the inherent vulnerability of the victim, who was a child at the time, there is a significant breach of trust, bearing in mind your relationship with her. I find that there was a degree of premeditation, though not necessarily a significant one. There was clearly however, significant harm that your actions have caused to the victim and her family, and this was not a fleeting degree of violation, there was continued offending for some 20 minutes.

[8] Both your counsel and the Crown have, in my view, identified where this case properly falls and your counsel submits a starting point of between three and four years, and the Crown submits a starting point of four years' imprisonment. In my view, bearing in mind the features that I have already identified, the starting point for the lead offence of unlawful sexual connection of four years is appropriate. There does need to be an uplift in light of the other charge of performing an indecent act by placing your penis close to her mouth, and I uplift that overall starting point by six months. That takes the overall starting point to 54 months. The only features that are available for you are those of your lack of previous convictions, and I do note that you are now [age in early 70s deleted]. In my view a combined credit of 15 percent, being 10 percent for your lack of previous convictions, and five percent on account of your age are the only factors which would reduce the starting point, and that would reduce the starting point by eight months.

[9] So that the end sentence is that of three years and 10 months' imprisonment.

[10] I then turn to other issues which flow on from that. One is when the offending occurred, because the band of times that have been set for the charge was covering a period both before and after the introduction of the strike warning regime. I am satisfied, on account of the evidence given by you that the victim was around 12 years of age when the incident that you described occurred, and in light of the other evidence I have heard, I am satisfied that this did occur after 1 June 2010. The victim's 12th birthday was in [month deleted] 2011.

[11] In those circumstances, I find that the strike regime is applicable to the facts of this case and given your conviction for unlawful sexual connection you are now subject to the three strikes law.

[12] I am now going to give you a warning of the consequences of another serious violence conviction. You will also be given a written notice outlining these consequences which list the serious violent offences.

[13] 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, then you will serve that sentence without parole or early release.

[14] If you are convicted of murder committed after this warning, then you must be sentenced to life imprisonment. That will be served without parole unless it would be manifestly unjust. In that event the Judge must sentence you to a minimum term of imprisonment.

[15] Mr [Bunn], how you spend the time that you must spend in custody before you appear before the Parole Board is a matter for you. You can either choose to simply sit there and not work on any issues that you have, or you can choose to use that time wisely. Clearly if you do decide to accept that there are behavioural issues involving you, and psychological issues that need addressing, that is something the Parole Board can take into account at the Parole Board hearing. If you do not, I am sure that is also something that the Parole Board will no doubt take into account as well.

[16] Finally, given your convictions and the sentence that I have imposed, you will be registered on the sex offenders register.

J C Moses
District Court Judge