

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.**

**IN THE DISTRICT COURT  
AT CHRISTCHURCH**

**CRI-2017-009-008794  
[2018] NZDC 1141**

**THE QUEEN**

v

**JEFFREY PAUL HOSKING**

Hearing: 24 January 2018

Appearances: C Bernhardt for the Crown  
S Hembrow for the Defendant

Judgment: 24 January 2018

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**NOTES OF JUDGE A D GARLAND ON SENTENCING**

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[1] Jeffrey Hosking, you appear before the Court for sentencing today on charges of sexual connection with a young person, indecent act with a girl aged between 12 and 16 years, and indecent communication with a young person.

[2] The facts relating to your offending are as follows. At the time of this offending you were aged 47 years and the victim was [age deleted]. You met her at a party [details deleted]. In fact, at the party you confiscated alcohol off her after you found out that she was [age deleted]. A week or so later you requested a “Befriend” from her on Facebook and after that contact between the two of you on [social media platforms] commenced.

[3] After a short period of time you began grooming the victim and you communicated to her that you would supply cash, cigarettes and or alcohol to her, but you would need favours in return.

[4] Dealing first of all with the indecent communication charge which is a representative charge.

[5] Between [dates deleted] , you communicated regularly with her on [social media]. The contact soon became sexualised and indeed they included requests by you for the victim to send you naked photographs of herself and a video of her performing a sexual act. She complied with your requests.

[6] Between [dates deleted], you continued to communicate with her via Facebook. That also became quickly graphic and sexually explicit. Again, you requested this young victim to send naked images of herself to you in return for you supplying goods to her. Again, she complied.

[7] Turning now to the charge of doing an indecent act on a girl aged between 12 and 16 years, again, this is a representative charge. Between [dates deleted] and [date deleted], your first meetings with the victim occurred. On two occasions, you met with her before she arrived at school. After some conversation, you kissed her and then began touching her breasts, initially, over clothing but then progressed to groping and squeezing her breasts underneath her bra. On another occasion between the same dates, at your address you had further sexual contact with her, kissing and touching her breasts. You then exposed your penis to her, placing the victim on top of you in a straddling position, and you attempted to remove her short tights. She managed to move away at that time and so that incident did not progress any further.

[8] Turning finally to the charge of sexual connection with a young person. On several occasions between [date deleted], I should say, that is also a representative charge, on several occasions between [dates deleted], you took the victim back to your home address. On one occasion the two of you were watching television and you began touching her breasts and vagina over her clothing before venturing below her clothing directly fondling her breasts and vagina, skin to skin. You then inserted your

fingers inside her vagina. On another occasion, you removed her underwear and began licking her vagina and putting your tongue inside at the same time as you were digitally penetrating her. On [dates deleted], the victim was at [location deleted]. She was having [social media] communication with you, who had agreed to supply her and her friends with alcohol. You drove and met up with the victim then took her back to your home address where you supplied her with some homebrew and some rum. You told her to remove all of her clothes and she complied. You then removed your pants and requested that she give you oral sex. She then placed her mouth on your penis and gave you oral sex until you ejaculated over her face and breasts. You supplied homebrew, rum and coke to the victim then for her to share with her friends. She became quickly intoxicated drinking this alcohol and by early evening [details deleted]. On [date deleted] after some communication with you, you offered to supply her with some cigarettes. You drove to her address, picked her up, and you took her to a nearby park. You began kissing her and fondling her breasts and genitalia over her nightie. You then inserted your fingers into her genitalia. You undid your trousers and exposed your penis and you placed the victim's hand on your penis and requested that she masturbate you. She complied until you ejaculated.

[9] The probation report writer tells me you are 48 years of age. It is noted you have a moderate offending history which commenced in 1984 with Youth Court matters. Your pattern of offending appears to have diminished in frequency and severity over the years with your most recent conviction before now being in 2009. You have not previously been convicted of similar offending. The gravity of the current offending suggests to the probation officer that your potential risk of causing harm to others is high. Your risk of re-offending is considered medium.

[10] You were receptive to any rehabilitative measures that were deemed necessary. The probation officer notes that you have a pro-social network in the community. No factors were identified that would suggest an inability on your part to comply with a community-based sentence, however, the recommendation is for imprisonment.

[11] I have read the psychological report that has been filed. I have also read the references that have been supplied to the Court. Clearly you have had long-term substance abuse issues. The references indicate that this offending appears to be quite

out of character for you. You are assessed by the psychologist as being at low-risk of re-offending. I see you are well regarded by friends and family and also by your employer.

[12] Both counsel helpfully filed written submissions which I have read. Initially the Crown submitted that a four-year starting point was appropriate for the sexual connection offending with an uplift of one year for the indecent communication offending.

[13] Mr Bernhardt, today for the Crown has revised that starting point somewhat after reconsideration of the case of *Jackson*<sup>1</sup> which has been referred to by counsel. In light of the decision in *Jackson* which Mr Bernhardt accepts is slightly more serious given the range and extent of penetrative sexually activity, he now adopts a revised starting point of three and a half years' imprisonment for the sexual connection offending with an uplift of one year for the indecent communication offending.

[14] Mr Hembrow tells me he does not have a lot of disagreement with the Crown in view of the reconsidered starting point by Mr Bernhardt. He submitted that the sexual offending is less serious than that in *Jackson*. He suggests a starting point of three years' imprisonment for the sexual offending as appropriate. He accepts that an uplift of around 12 months for the indecent communications offending suggested by the Crown may also be appropriate.

[15] He tells me that recently he read the victim impact statements to you and that you were very distressed hearing what the victim and the mother said. You said to him that you felt miserable and ashamed for your behaviour. Mr Hembrow says that reaction coincides with the probation officer's assessment that you were genuinely remorseful. You accept that imprisonment is inevitable. Mr Hembrow says the positive references from your friends and from your employer and the report from the psychologist would tend to indicate that at the time of this offending your thinking was disordered. The people who know you well suggest that this offending was out of character. Mr Hembrow asks that I give you full credit for your early guilty pleas which is a recognition on your part of genuine remorse.

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<sup>1</sup> *Jackson*

[16] The lead offence is clearly the charge of sexual connection with a young person because that carries a maximum penalty of 10 years' imprisonment. The charges of doing an indecent act with a young person and indecent communication with a young person each carry maximum penalties of seven years and three years respectively. There is no guideline decision for this type of offending, but in the decision of *R v Johnson*<sup>2</sup> the Court of Appeal had this to say:

“We consider that the four-year starting point in the *R v H* is still a useful reference point in relation to sentencing for sexual connection with young persons' where the offending features present in that case. Particularly aggravating features in *R v H* were abuse of trust, a significant age gap between the offender and the victim, full penetrative sex on a number of occasions and significant adverse effects on the victim. Where aggravating features in *R v H* are present, a starting point of four years' imprisonment may be appropriate. Other aggravating factors not present in *R v H* may be seen as increasing culpability. Such features could include grooming or abuse of and demeaning behaviour. Where there has been no breach of trust as in *R v H*, but the same aggravating features are present, a lower starting point will be appropriate. A different combination of aggravating and mitigating factors might produce yet another result. It follows that the starting point of four years should be seen as no more than a mid-point in the range of offending where there is moderate culpability.”

[17] In this case I consider the following aggravating factors are present. First, obviously, there is a substantial age discrepancy. You were aged 47 and the victim was only [age deleted]. Secondly, there was targeting. This is a clear case of grooming behaviour where you were offering to supply and or did supply cash, cigarettes and alcohol in return for sexual favours. That started with requests for pictures and videos of the victim and then it transitioned into physical, sexual contact. Thirdly, there is the frequency of sexual contact. This offending occurred over several months and did occur on multiple occasions. The conduct was persistent. It was not just a one-off or occasional incident. Fourthly, I take into account the nature and extent of the sexual contact. The offending in this case included touching of breasts, over and under clothing, that occurred repeatedly; Placing the victim on top of your exposed penis; introducing your fingers into her genitalia, that occurred repeatedly; oral sex performed on the victim; having the victim perform oral sex on you and ejaculating over her face and breasts; and also having the victim masturbate you. It is a further aggravating factor that your offending has had a very substantial effect on the victim.

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<sup>2</sup> *R v Johnson*

[18] Mr Bernhardt, for the Crown, read to you the victim impact statement from the victim's mother which outlines the significant adverse effects that your offending has had on the victim and I do not need to repeat what was said now.

[19] While both counsel have adopted a separate and cumulative approach for sentencing purposes, I take the approach of looking at your offending in its totality and then arriving at a starting point. I consider that the starting point in your case overall should be four years' imprisonment. While I do agree with Mr Hembrow that the case of *Jackson* involved more serious sexual activity, there was not in that case the same targeting of the victim evidenced by the indecent communications that occurred in the present case.

[20] I turn then to consider aggravating and mitigating factors personal to you. Your previous history does not justify any uplift in the starting point. Your guilty pleas, which were entered at an earlier stage, do allow me to significantly reduce your sentence. I reduce your sentence by one year on account of your guilty pleas.

[21] Stand up please. That gives the following result, Mr Hosking. On the charge of sexual connection with a young person you are sentenced to three years' imprisonment. On the charge of doing an indecent act with a girl between 12 and 16 years, you are sentenced to six months' imprisonment. On the charge of indecent communications with a young person, you are sentenced to one year imprisonment. All of those terms are concurrent. That means, the total sentence that I impose today is one of three years' imprisonment.

A D Garland  
District Court Judge