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[SQUARE BRACKETS]

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IDENTIFYING PARTICULARS, OF COMPLAINANT(S) PROHIBITED BY S
203 OF THE CRIMINAL PROCEDURE ACT 2011.**

**IN THE DISTRICT COURT
AT CHRISTCHURCH**

**I TE KŌTI-Ā-ROHE
KI ŌTAUTAHI**

**CRI-2017-076-000218
CRI-2017-009-003569
[2018] NZDC 17553**

THE QUEEN

v

ALEXANDER GORDON BEACH

Hearing: 22 August 2018
Appearances: C Boshier for the Crown
J Lovely for the Defendant
Judgment: 22 August 2018

NOTES OF JUDGE T J GILBERT ON SENTENCING

[1] Mr Beach, you are for sentence in relation to a raft of charges relating to child sexual offending. There is one of sexual grooming, six of sexual connection with a young person and one of contracting commercial sexual services from a person under the age of 18 years. The maximum penalties for each of those offences range between seven and 10 years' imprisonment. Five of the eight charges are representative in nature. In addition to that, there are five charges of offending under the Films, Videos, And Publications Classifications Act 1993. Each of those charges is representative and the maximum penalty is 10 years.

[2] The facts are set out in two agreed summaries. You are a 36-year-old. Your primary victim, [the victim], was aged [under 16] during the period you offended against her. You met her whilst she was in [location deleted] celebrating a [competition] win. You started to text her and she asked you to top up her cellphone with credit. In that way, you obtained her number.

[3] Over the following weeks you continued to communicate via Snapchat. The messages became more and more sexualised culminating in your request for her to provide two pairs of uncleaned underwear which you would pay her for. Over time, she supplied you with underwear including from her younger siblings and you would give her money.

[4] You then asked her to meet with you to engage in sexual activity which you would pay for and the first charge of sexual grooming relates to the period between [dates deleted]. You were constantly messaging her and requested her to send nude photos and videos of her masturbating. She obliged and you would pay her for that. You eventually asked her to meet you to engage in sexual activity.

[5] You picked her up in your ute and drove to an unknown location in [location deleted]. Charges 2 and 3 which sexual connection charges relate to you getting her to climb onto the deck area of your vehicle which is covered by a canopy. You had prepared that with a mattress, water and a sheet. You removed her clothing and then licked her vagina and inserted your fingers. She then performed oral sex on you until you ejaculated and you paid her for that.

[6] Between [dates deleted], you picked her up again from a house in [location deleted]. You then asked her to lie down on the front seats of your truck and repeated what you had done previously. She asked you to stop but you wanted to continue. After that you paid her again.

[7] In the three-year period between [dates deleted] you and she met up numerous times for sexual activity. She estimates that to have been about 20 times. You both performed oral sex on each other. Charges 4 and 5 are additional representative

charges of sexual connection. After time, you asked for full penetrative sexual intercourse. The oral sex and digital penetration continued.

[8] Another charge relates to an incident at [location deleted] where you once more got her into the back of your ute. You performed oral sex on each other and on this occasion, you produced a vibrator. She was reluctant, but you used it anyway before having full sex with her. You paid again.

[9] Charge 7 relates to an incident in a motel room. You picked her up and took her there and over the course of the day you engaged in full penetrative sex with her. You also had anal sex. You brought the vibrator once again and used it on her inserting it into her vagina and you also attempted to put it into her anus. At the conclusion of this you paid her \$1000.

[10] The eighth charge relates to contracting her for commercial sexual services which covers the various payments you made during the 20 odd occasions you had sexual contact with her over the three-year period.

[11] When interviewed you made various admissions.

[12] The second summary of facts records your offending in relation to images of child sexual abuse. This offending came to light when you were arrested in relation to your abuse of the primary victim, [the victim]. Two mobile phones and a laptop were seized and forensically analysed. 681 photos and videos were found to meet the definition of objectionable material.

[13] The charges that have been laid represent different categories that have come to be understood within the law. The first representative charge relates to children as young as five posing erotically, but with no other sexual activity. The next charge relates to images involving sexual activity between children or solo masturbation. In this case, some of the images involve children as young as six. The next charge relates to images of non-penetrative sexual activity between adults and children, some as young as seven. The fourth of these charges relates to images of penetrative activity between children and adults, some as young as seven. The final one of these charges

relates to screenshots and photographs of your primary victim, [the victim], posing in a sexualised manner.

[14] I have received a victim impact statement from [the victim]'s mother, as well as just today from [the victim]. The victim impact statements are both sad reading. As her mother recounts at the age of [age deleted], [the victim] had a lot going for her. She was doing well at school, was accomplished on the sports field and generally passionate about life. As you entered her life, she changed. She entered a downhill spiral and at [age deleted] she was expelled from school. She became addicted to synthetic drugs, cannabis and methamphetamine all by the time she was [age deleted]. She became a runaway and a prostitute and her mother feared for her life on a daily basis. Eventually, she was forced to place her in alternate care because she felt she could no longer keep her daughter safe. As she says in her victim impact statement:

You took complete advantage of [the victim] and you turned her life upside down. You exposed her to things that no [age deleted] should have to be exposed to. What you have done cannot be rewound.

[15] You have severely impacted her and her family. That is borne out by the victim impact statement that I have received from [the victim] today. The reason that it came late is because she has had so much trouble writing about what you did to her and the impact that it has had on her life. Everything has changed for her, from being a [age deleted]-year-old normal little girl, here she is now after your offending; struggling with a whole bunch of decisions that she has made, and now working on the street.

[16] You have one previous conviction and that was for burglary about a decade ago. It is unrelated to this type of offending so it does not justify an uplift, but neither can you claim credit for your good character.

[17] I have received a presentence report. It seems that you have been a socially somewhat awkward person for some time and have struggled with relationships. Your circle of friends is quite limited and you like to keep yourself to yourself. Despite that, you have lived a fairly unremarkable life working in various positions on dairy farms and more latterly as a truck driver.

[18] I have received a nice letter from your mum and she makes it clear that you are a loved son and part of a close family. She is as upset as anybody about what you have done but will continue to give you support.

[19] The report writer in the presentence report notes that there was no acknowledgement of the harm that you have caused [the victim]. However, she suggests that this probably reflects the lack of insight rather than any callousness on your part and I am prepared to give you the benefit of the doubt in that regards. Ultimately, the recommendation is a term of imprisonment which is, of course, inevitable.

[20] I have considered all the purposes and principles of sentencing. However, some stand out. I need to hold you to account and denounce what you have done. I need to deter you and others from doing this type of thing again in the future. I have to have regard to the impact of your actions on the victim and the immense harm that you have caused.

[21] I have received submissions from both sides. Both counsel have referred to a variety of cases which I have taken into account. The Crown submits that a starting point in relation to your offending against [the victim] when viewed globally, justifies a starting point in the region of five and a half to six years' imprisonment. In addition, the Crown submits that a starting point in relation to the objectionable images charges justifies a starting point of two to three years' imprisonment but acknowledges that some reduction needs to be made for the totality principle.

[22] The Crown acknowledges that reasonably significant discounts for your guilty pleas are appropriate but points out that you did not plead to the charges in relation to your primary victim until after a pretrial hearing. I do not think that the pleas could be described as early. Certainly, your pleas though in relation to the objectionable images charges were at an early opportunity. The Crown has suggested I consider a minimum period of imprisonment.

[23] Mr Lovely on your behalf, submits that a starting point of three years and six months is appropriate in relation to the offending against [the victim]. Further, he

submits that in relation to the objectionable images offending, a starting point of about 12 months is appropriate on a cumulative basis. Mr Lovely submits that you should be entitled to full credit for your guilty pleas alongside the fact that you have written a letter expressing remorse and backed that up with a cheque for \$2000 by way of emotional harm reparation which represents a significant sum for you. Mr Lovely submits an end sentence of about three years and one month is appropriate.

[24] I have considered all of the material. When I look at your offending there are a number of obvious aggravating features. Your sexual offending against [the victim] was enabled by a persistent course of grooming which was carried on through your ongoing electronic communications and payments to her. What you did was highly premeditated and calculated. There is a significant age gap between you. The offending took place over almost three years and involved something in the order of 20 separate occasions. The offending spanned the full range of sexual activity including digital penetration, mutual oral sex, penetrative intercourse, anal intercourse and the use of a sex toy. Aspects of what you did can rightly be described as degrading, particularly bearing in mind the age discrepancy. The victim impact has been enormous.

[25] Each case of this type has its own unique features. When I assess what you have done in relation to [the victim] against the various cases that have been provided to me, in my view, a starting point of five and a half years' imprisonment is appropriate, that is 66 months.

[26] I then need to consider the objectionable images charges. I consider that a starting point in the region of two years' imprisonment would be appropriate but taking into account totality considerations, I would add a year cumulative. That takes me to six and a half years or 78 months prior to consideration of mitigating features.

[27] Mr Lovely has asked me to give you significant credit for exceptional remorse alongside emotional harm reparation. I do not accept that your remorse is exceptional. Remorse is part and parcel of credit that is given for a guilty plea. I do acknowledge though that your emotional harm reparation payment is worthy of consideration.

[28] I have considered what Ms Boshier has said and the same point struck me, that your offending was enabled in large measure, because you paid [the victim] and I wonder in those circumstances, whether a payment would be appropriate. But at this stage, I am certainly prepared to countenance the payment of \$2000 on the basis that I am sure that it will be a benefit to her and in the event that she does not want it, she can choose some alternate cause to put it towards.

[29] In my view, that reparation payment is worthy of recognition. I would give you five percent which equates to about four months bringing me back to six years and two months or 74 months.

[30] From that I need to make a deduction for your guilty pleas. Clearly, you are entitled to reasonably significant credit but I do not consider that the pleas were entered at an early stage in relation to the main charges. Having said that, you have spared [the victim] from giving evidence and that is worth a lot in my books in cases like this. On a global basis, bearing in mind all of the circumstances, including the points at which your various pleas were entered, I would allow a deduction of 14 months which is around about 19 percent. That means that the end sentence is 60 months or five years' imprisonment and I will allocate that across the charges as follows:

[31] On each of the charges relating to [the victim] you will be sentenced to five years' imprisonment. On each of the charges relating to the objectionable images, you will be sentenced to concurrent terms of 15 months' imprisonment.

[32] I am not going to impose a minimum period of imprisonment. These are your first offences of this nature and I prefer to leave it to the Parole Board to determine the point at which you should be released which will likely depend a lot on the treatment you engage in, in a custodial setting.

[33] I am not going to formally order emotional harm reparation because a cheque made out to the complainant has been provided to the prosecutor which will be, in turn, be passed on to [the victim], but I have taken that into account as you know.

[34] You will be automatically registered on the Child Sex Offenders' Register.

[35] In addition, I order destruction of the two phones and the laptop on which the various objectionable images were found.

[36] The first strike warning has previously been given, so the sentence Mr Beach is effectively five years.

T J Gilbert
District Court Judge