

STATE OF TASMANIA v BRUCE PATON ANDERSON
COMMENTS ON PASSING SENTENCE

9 JANUARY 2020
WOOD J

Bruce Paton Anderson has been found guilty of 4 counts of indecent assault and one count of aggravated sexual assault. The counts of indecent assault concern a complainant [...] referred to as LM and the single count of aggravated sexual assault concerns a complainant [...] referred to as KR. The defendant was charged with two other counts concerning the same complainants and the jury acquitted him of those counts. The jury was directed that in order to find the accused guilty of any of the counts the jury had to be satisfied beyond reasonable doubt that the evidence of the complainant named in the count was truthful and reliable. It is clear from the verdicts that the jury was satisfied beyond reasonable doubt that both complainants gave truthful and reliable evidence.

The indictment particularised the four counts of indecent assault as having occurred between 23 August 2003 and 23 August 2006 when LM was aged between 8 and 11. The evidence established that in fact, the conduct was likely to have occurred in approximately 2006 and, or 2007 when the complainant was aged approximately 10 or 11 years of age.

The first occasion happened when LM was at her home. The defendant was at her family home doing some excavating work. She was outside when he came up behind her, and without warning or comment, grabbed her around the waist and put his hand underneath her underwear and touched the area of the outside of her genitalia. The complainant felt shocked and embarrassed.

The defendant and the complainant's father developed a friendship and the defendant would visit, or the complainant's family would visit the defendant at his home. There was an occasion when the complainant and some of her family visited the defendant and she used the upstairs toilet. She heard the defendant coming and she tried to hide in a spare bedroom next to a wardrobe, but he found her, grabbed her and put his hand down her pants and again touched her on her naked vagina. On another occasion, she again tried to hide and she laid down on the floor so that he would not see her. He found her and assaulted her in the same way. He found her attempts to avoid him and hide from him amusing. Those two occasions of indecent assault may have occurred on the same day.

There was a fourth occasion when she was behind a bar in the lounge room at his residence and he came up behind her and grabbed her around the waist. She tried to run away. He laughed, and put his hand down her underpants, again touching her external vaginal area. She called out for help to her family members who were in the room, his hands were out of sight and he continued to touch her as if he was doing nothing wrong. She thought it may have appeared to her family as if he was just tickling her. She recalled her family turning away.

These sexual assaults were brazen and opportunistic, they were degrading and humiliating for the complainant and his conduct made her feel powerless and undermined her sense of self-worth. He was undeterred by her distress and her obvious apprehension. Not only was he lacking in empathy, he found her distress and her helplessness amusing.

I take into account that the conduct did not escalate and did not, on any of the four occasions, involve penetration of her vagina or genitalia.

The complainant first complained about this conduct when she was 18 years of age to her partner. Before then she had not told anyone, feeling embarrassed and feeling that she did not have anyone who she could tell. She disclosed the abuse to police in approximately 2017. She has sustained serious psychological and emotional harm as result of the defendant's conduct and abuse perpetrated by others when she was a child. The defendant's conduct contributed to that harm.

The crime of aggravated sexual assault occurred on 10 March 2007. KR was seven years of age. The complainant went with her mother's trusted friend, Ms R, who offered to take the complainant, as well as her own son, to visit the defendant so that the children could enjoy an outing and a pony ride at the defendant's property. The evidence establishes that at one point the complainant went up upstairs and saw the defendant massaging Ms R with both adults in a state of partial undress. The complainant went downstairs and was followed by the defendant outside. He grabbed her and pulled her over to a shed and placed his hand inside her underpants and inserted his finger or fingers inside her vagina causing her pain and discomfort. Soon after the complainant returned home, she told her mother what the defendant had done.

This crime has had a significant effect upon the complainant both during her childhood and as an adult. Memories of the incident remain with her and continue to affect her functioning and participation in everyday activities. She is lacking in self-confidence and is fearful and insecure. There are days on end when she is so affected that she feels unable to leave her house.

The defendant was interviewed by police on 16 March 2007, and denied sexually assaulting the complainant, and denied being alone with her at any stage. He also refuted aspects of her truthful account such as what she had witnessed in relation to the massage.

There was considerable delay in the laying of charges due to Ms R initially supporting the defendant's account about his lack of opportunity to commit the crime and contradicting the child's observations about the massage. Ultimately, in February 2010, Ms R made a statutory declaration which retracted her original statement in certain key respects. The defendant should not receive a benefit in terms of a reduced sentence because of this delay. It resulted from his own false account and a false supporting account.

The defendant has a conviction for indecent assault and rape occurring in October 2009. He was convicted in April 2012 and sentenced to three years' imprisonment. As a result of the police investigation concerning those crimes he was charged with three counts of possessing child exploitation material and 20 counts of possessing bestiality products. He was convicted in the magistrates' courts and fined \$2,000. It is noted that the crime of indecent assault involved digital penetration, and the rape involved inserting his penis in the mouth of the child he assaulted. The child was aged 5 years and he held a position of trust as the partner of the child's grandmother. By that time, he had been investigated by police for the crime of aggravated sexual assault and interviewed by police and yet, evidently, he was undeterred by that police scrutiny.

I have received a forensic mental health services report. The defendant continues to deny his guilt for these crimes. Given this stance, it is highly unlikely that he will participate meaningfully in any intervention. I accept though that there is the possibility that his attitude may change at a later time. There is no evidence to indicate that the defendant suffers from a major mental illness or mental impairment. It is considered that he has a low level of factors indicative of specific sexual interest in children.

He is 61 years of age. He is in a long term relationship and has children of his own and grandchildren. He continues to receive support from family and friends.

In the way the defendant committed these crimes, he demonstrated arrogance and a brazen attitude. There has been no hint of any remorse. In comparing his case with other offenders, he is not entitled to the mitigation that some offenders can claim the benefit of, arising from their plea of guilty. Both complainants gave evidence and it was apparent that it was for them, as it is for most complainants, a very difficult and very stressful experience.

A lengthy sentence is required to reflect the gravity of the crimes, the fact that there are a total of five occasions of sexual abuse and the lasting impact of the crimes on the lives of two

complainants. If the defendant was being sentenced for the four incidents of indecent assault, a global sentence in the order of three years' imprisonment or more would be warranted in all the circumstances. If the defendant was being sentenced for the crime of aggravated sexual assault involving digital penetration, on its own, it would warrant, for this offender, a term in the order of three years' imprisonment. The aggregate sentence I impose today has been moderated so that it is proportionate to the totality of his conduct and his overall culpability. I have also taken into account that he has served time in prison for sexual abuse of a child committed within the same broad time-frame as these crimes and I have kept in mind that he has not reoffended since 2009.

The sentence must be sufficiently heavy to be effective as a general deterrent to other potential offenders, this is essential so that the Court fulfils its objective of protecting children from sexual abuse.

I record convictions and impose a global sentence of 5 years' imprisonment backdated to 8 November, 2019, and I impose a non-parole period of two years and ten months' imprisonment.

I make an order under the *Community Protection (Offender Reporting) Act* that the defendant's name be placed on the Register pursuant to that Act and that he comply with the reporting obligations under that Act for 10 years from his release from prison.