

STATE OF TASMANIA v CAMERON JAMES RILEY
COMMENTS ON PASSING SENTENCE

16 MAY 2019
PEARCE J

Cameron Riley was found guilty by a jury of one count of rape and three counts of unlawful sexual intercourse with a young person. He is also to be sentenced on his pleas of guilty to two counts of supplying a controlled drug to a child. Subject to the verdicts, it is for me to find facts for sentence. Facts adverse to the defendant must be proved beyond reasonable doubt. For the most part, the facts follow from the verdicts. For each crime the complainant is the same person. At the relevant time she was aged 14. She is now 16. The jury must have been satisfied beyond reasonable doubt of the truth of her account.

The crime of rape was committed between 1 July 2017 and 11 August 2017. The defendant was then aged 28. The complainant knew him through her father. She faced many difficulties in her life. She had no stable residence and abused illicit drugs, most relevantly methylamphetamine. On the day of the crime she found herself at the defendant's home in Blackman's Bay. She had been using methylamphetamine and was unable to sleep. The defendant admits that he gave her a Serepax tablet. Serepax is the generic name for oxazepam, which is a controlled drug, a benzodiazepine. She went to sleep on the defendant's bed. After having been asleep she woke to find the defendant on top of her with his penis in her vagina. Still affected by the drug she went back to sleep. She did not consent to the sexual intercourse. I am satisfied that she had refused his earlier requests for sex, and could not have consented on this occasion because she was asleep. The State does not assert that Serepax was supplied to the complainant by the defendant on any other occasion.

The crimes of having sexual intercourse with a young person were all committed overnight between 19 and 20 October 2017. During the period between 2 October and 17 October 2017 the complainant was in custody at Ashley Youth Detention Centre. On her release she was referred to supported accommodation at Mara House in Hobart. I find that the complainant left Mara House late in the evening of 19 October and travelled by taxi to the defendant's home. She went there looking for methylamphetamine which, by his plea of guilty the defendant admits supplying to her. It follows from the verdicts that the jury was satisfied that three separate instances of sexual intercourse occurred that night, one instance of oral sexual intercourse and two instances of vaginal sexual intercourse. I am satisfied that the complainant submitted to what was a lengthy period of sexual conduct, including the oral and vaginal sexual intercourse, with the defendant in order to obtain methylamphetamine. I accept the complainant's evidence that during the course of the sexual conduct, the defendant asked her to bath and shave her pubic hair, and that he took Viagra. Viagra was found at an earlier search of the defendant's home on 29 March 2017. I am satisfied that it was not the only occasion on which he had supplied her with methylamphetamine. In November 2017 she told the police that she was at the defendant's house for a week or so prior to the rape, and during that time he was "feeding her up" on methylamphetamine. I find that during the period specified in this count in the indictment, 1 July 2017 to 20 October 2017, the defendant supplied the complainant with methylamphetamine on other occasions, but the number of occasions cannot be specified with certainty.

The complainant left the defendant's home on the morning of 20 October 2017. Over the following days and weeks she told others something of what had taken place. She returned to Ashley from 24 October 2017 to 28 November 2017, during which time she made a further disclosure and the police were notified. The defendant was interviewed on 17 April 2018 but denied any wrongdoing.

The defendant is now aged 30. Until his remand in custody he lived with his mother with whom he maintains a good relationship. He did not have a good relationship with his father. He was subjected to alcohol abuse and domestic violence. He was educated to grade 10. Since leaving school he has sporadically held employment, but most recently has received unemployment benefits. He started abusing illicit drugs at age 12. At the relevant time he was a heavy user of methylamphetamine, but that is not mitigating. As a result of his crime he has been socially ostracised. He brought that on himself.

He has no prior convictions for sexual offences, but has a poor record for alcohol and drug-related driving offences, drug offences, firearm offences and some dishonesty. In 2013 he was given a three month wholly suspended sentence for common assault. In June 2014 he was sentenced to imprisonment for three months, most of which was suspended, for dishonesty, firearm and drug offences. In April 2015 he was sentenced to a term of nine months, almost all of which was suspended, for trafficking in amphetamine, methylamphetamine and cannabis. He has two prior convictions for common assault. In 2016 he was sentenced to imprisonment for three months for dangerous driving and numerous other summary offences. In February 2018 he was imprisoned for 10 months for drug and firearm offences and driving offences. Those latter offences are not prior convictions for sentencing purposes.

The crimes for which the defendant is now to be sentenced are very serious and involve a high level of criminal culpability. There was a considerable age difference between him and the complainant. In committing the rape he took advantage of the stupefying effects of the drug ingested by complainant. The crime is not further aggravated by any additional violence, force or threat. For the later instances of sexual intercourse, although there are three counts, all occurred on the same day. The State does not assert that the complainant did not consent, and thus the defendant is not to be punished for rape. But the fact of consent is not mitigating for the crime of which he was convicted. The law is in place to protect young persons who may not be in a position to protect themselves. The defendant initiated the sexual conduct using the complainant's need for illicit drugs as a means of obtaining sexual self-gratification. Her acquiescence to sexual intercourse was motivated by her need for drugs, when her immaturity, social situation, lack of other support and disadvantage in the power imbalance between them made her extremely vulnerable to pressure to agree, and less likely to complain. The defendant knew all that and took advantage of it. His sexual acts were demeaning and degrading and potentially corrupting. The prohibition on sexual acts with children is founded on the presumption of harm. Premature sexual activity is presumed to cause long term and serious physical and psychological harm. The effects can be lifelong and sometimes only emerge after many years. The complainant was very young to be exposed to sexual conduct of this nature. She had led a very troubled life in other respects, but harm from crimes such as those committed by the defendant is inevitable. Her victim impact statement is to be treated with the required circumspection, but it sets out the types of psychological impact which might be expected: increased levels of fear and anxiety and reduced self-esteem. The defendant is not entitled to the mitigation a plea of guilty would have attracted, especially for crimes of this nature. It was obvious from events at the trial that the process of preparing for and giving evidence, even though it was by audio-visual link and by admission into evidence of her police interview, was most traumatic for the complainant.

The seriousness of the crime of supplying methylamphetamine to a 14 year old girl is not to be overlooked. The defendant is not to be punished for his record, but in relation to drug offending, his record indicates a considerable need for protection of the public and specific

deterrence. I will allow for parole, but eligibility will be permitted only after the defendant serves the term which I consider to involve adequate punishment.

Cameron James Riley, you are convicted on each count. I am not satisfied that you do not pose a risk of committing a reportable offence within the meaning of that term in the *Community Protection (Offender Reporting) Act 2005* in the future. I make an order directing that the Registrar cause your name to be placed on the Register and that you comply with the reporting obligations under the Act for a period eight years from your release. I impose one sentence. You are sentenced to imprisonment for 6 years from 7 May 2019. I order that you not be eligible for parole until you have served 3½ years of that term.