

MJP, you were found guilty by a jury of four counts of indecent assault and two counts of rape. It is my task to find facts for sentencing purposes but, in this case, the facts substantially follow from the verdicts. I may only make findings adverse to you if satisfied beyond reasonable doubt they have been proved, and I may only make findings of fact in your favour if they are proved on the balance of probabilities.

Your crimes were committed against two females, L and T. The circumstances were these. In January 2003 you met and commenced a relationship with KH. You were married in 2008. She had two children. L was the eldest. She was born in 1996. T was born in 1990. She was not related to L but had a close relationship with her family and lived within it from time to time as a child as well as later. Although T was somewhat older, she and L were like sisters.

The jury found that three crimes were committed against T. Sometime in about 2003, when T 12 or 13, she was staying in the home which you had begun to share with KH. She was sleeping on a bed in the lounge room. After L had gone to bed, you indecently assaulted T by putting your hand down her pyjama trousers and touching her vagina over her pants. That was an indecent assault. The assault was interrupted when L came into the room. She asked what you were doing but did not see anything.

The second crime occurred in 2004 or 2005, when T was 14 or 15. You were together in a car. You indecently assaulted her by putting your hand down her pants directly onto her vagina, under her underpants.

The third crime occurred in 2004 or 2005, when she was 14 or 15. There had been a social function at your home. After the guests had gone T was sitting in an outside area. You sat beside her wearing a dressing gown. You exposed your naked erect penis and forced her head onto it, penetrating her mouth. That conduct constituted the crime of rape. She pulled away. You told her not to say anything because no-one would believe her. She complained to the police in 2013. You were interviewed but denied any wrong doing. The investigation did not proceed further until the allegations concerning L emerged in 2015.

L gave evidence that you began to abuse her soon after your relationship with her mother began in 2003, when she was about six, and continued until she was 17. However, the charges that the jury found proved related to only one specific occasion in about 2010 or 2011 when she was aged between 13 and 15. You and she and her younger sibling attended a social occasion at the home of a family friend on the east coast, and stayed overnight. The jury was satisfied that you woke her in her bed, touched her vagina, placed her hand on your penis and then penetrated her mouth with your penis. She said it went into her mouth a couple of times. It is not suggested that you ejaculated. You thereby committed two indecent assaults and a rape. It was not until 2015 that L told her doctor what had happened and the police were notified. You were again interviewed but made no admissions.

The jury could only have found you guilty of those crimes if, taking all of the evidence into account, it was satisfied beyond reasonable doubt of the truth of the substance of the account given by both complainants. T gave evidence, which I accept, of other approaches you made to her. I find that evidence to demonstrate that you had an ongoing sexual interest in her. The evidence of L that she was sexually abused was strongly corroborated evidence of admissions

you made to others. In early 2016, you sought an explanation from a psychiatrist of why you had sexually assaulted L and sought a referral to a psychiatrist who was an expert in sexual offending. You said other things to her, to your wife and to your wife's brother which strongly suggested your guilt. I am also satisfied the crimes against L were committed in the context of other acts of sexual abuse against her over a prolonged period, substantially as she described to the jury. You are not to be punished for uncharged acts, but rather sentenced on the basis that the occasion on which you assaulted and raped her is not to be regarded as an isolated occurrence or out of character.

The *Sentencing Act* 1997, s 11A, applies to the crimes of which you have been found guilty. It is aggravating that, at the time of the crimes, both girls were under your care, supervision and authority. I cannot be satisfied beyond reasonable doubt that T was under 13 at any relevant time, although that makes little difference to your criminal responsibility. It is not asserted that any of the other factors of aggravation raised by that provision apply. Related to the fact that the victims were in your care is that you took advantage of the power and control you had over them to commit a very serious breach of trust.

You are now aged 46. At the request of your counsel I sought a report from the Chief Forensic Psychiatrist. I have a report dated 17 August 2021 from Dr Stephen Patchett. Some aspects of your childhood and background, as detailed by your counsel and in the report have been difficult for you but, in matters such as this, provide little mitigation. There has been some delay in investigation of these crimes for a range of reasons mostly beyond your control. However it is not delay of a character which carries weight in your favour. That you were affected by alcohol when you committed these crimes, at least some of them, is not mitigating. You have a good employment record but again that carries little weight in cases like this. In 2003 you were sentenced to imprisonment for dishonesty, but that is of little relevance. In 1994, when you were 19, you were sentenced to imprisonment for 12 months, six months of which was suspended, for one count of aggravated assault and one count of indecent assault. The circumstances of those crimes do not clearly emerge from the sentencing comments, except that they were offences of sexual nature against a female the State asserts was 17 or 18. Accordingly, although she was younger, she was not a child in a similar sense and there was little age disparity. There has been no similar re-offending since these crimes were committed, the most recent being about ten years ago. I need not detail all of the contents of Dr Patchett's report. It reviews your personal background and circumstances and describes that you suffer from an adjustment disorder with mild to moderate depression and anxiety. It is not a major mental illness or impairment, does not reduce your personal responsibility for your crimes, does not reduce the need for general or specific deterrence, or bear on the type of sentence which might be imposed. Dr Patchett assesses a low to moderate risk of future sexual offending and suggests referral to and assessment by the Sex Offender Treatment Program.

The impact of sexual crimes against children is a very important sentencing factor. The prohibition on sexual acts with children is founded on the presumption that it is the cause of long term and serious harm which can profoundly affect victims for many years, if not the whole of their lives. In this case, no physical harm is alleged but your crimes have inevitably given rise to psychological damage. The victim impact statements describe just the type of psychological results which are to be expected. T is now in her early 30's. She has been strongly affected. She has persistent traumatic memories of the abuse and has flashbacks. She feels anxious, experiences low self-worth and feels fear and isolation, especially in social situations. She is overprotective of her own children and her relationship with her partner is affected, even though he is supportive of her. Give the evidence of other childhood experiences, it is possible that other

factors contributed to some of these effects, but I am in no doubt that your conduct is a very powerful factor.

L has been very seriously affected. The traumatic impact on her has been significant. She is diagnosed with PTSD, anxiety, depression, ADHD and paranoia with obsessive compulsive tendencies and is treated with medication. The relationship with other family members has been adversely affected. She also has persistent and pervasive memories, has panic attacks and her ability to form relationships has been very seriously impaired. She requires ongoing treatment from a clinical psychologist and a therapist.

Above all of that, the sentence must be proportionate to your crimes. You are not entitled to the mitigation a plea of guilty would have attracted. That is especially so in cases like this in which a plea of guilty avoids the need for the victims to be subjected to the further anxiety and trauma of having to recall events, give evidence about them and have their accounts challenged. You were remanded following the guilty verdicts on 16 March 2021. To serve the need of punishment, vindication of the victims, and specific and general deterrence, a substantial term of imprisonment is called for, and I think that a non-parole period marginally longer than the minimum is required to ensure a term which justice requires.

MJP, you are convicted on counts 1, 2, 3, 8 and 9 on the indictment. On count 6 you are convicted of the alternative crime of indecent assault. 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 10 years from your release. I impose one sentence. You are sentenced to imprisonment for six years from 16 March 2021. I order that you not be eligible for parole until you have served four years of that term.