

STATE OF TASMANIA v ANITA ANN BARKER
COMMENTS ON PASSING SENTENCE

15 FEBRUARY 2023
BLOW CJ

Ms Barker has pleaded guilty to a charge of blackmail. After engaging in some sexual activity with a man more than twice her age, she and two accomplices extorted \$30,000 from him as the result of a threat to give information to his wife.

Ms Barker began communicating with the man by Snapchat in August 2021. They exchanged sexually explicit messages and pornographic photographs of themselves. They met by arrangement at the man's workshop, where Ms Barker took off his pants and performed oral sex on him. Later that day she asked him for a \$100 to help with family expenses, and he generously transferred \$150 to her bank account. She messaged him, saying that she had not received the money. He responded by sending her a screenshot as evidence of the bank transfer. That screenshot revealed that he had about \$45,000 in his bank account. The couple met again by arrangement three days later, again at the complainant's workshop. A Mr Stanton, a friend of Ms Barker's then partner, joined them. She made a phone call to a man whom she referred to as "Steven". That man started abusing the complainant. He said that he was Ms Barker's partner and threatened to tell the complainant's wife about the pornographic and sexually explicit messages if he did not pay them \$50,000. The complainant said that he did not have that amount. Mr Stanton said to the complainant, "How about \$30,000?" The complainant agreed to pay that amount in two instalments. Later that day Ms Barker and Mr Stanton collected the first \$15,000. The next day they collected the second \$15,000.

The complainant reported the matter to police later that day. Search warrants were obtained and executed. The police recovered \$1,500 from Mr Stanton, but the other \$28,500 was not recovered.

Ms Barker has asserted that she received only \$500 of the money received from the complainant, and that another man received the bulk of that money. For sentencing purposes, I have decided that I have to accept that assertion. However, regardless of how much Ms Barker in fact received, the important point is that the victim of this crime was defrauded of \$30,000. If Ms Barker did not get what she hoped to get, that really is her problem. If you deal with dishonest people, you run the risk of not getting what you expect to get in this sort of situation.

Ms Barker was 31 years old when she committed this crime and she is now 32. She has two children who live with their father. The complainant is in his mid-sixties. Ms Barker was dealt with by magistrates on minor stealing charges in 2013, 2014, and 2019. She has a variety of convictions on other charges, but they are not so significant.

Mr Stanton pleaded guilty to a charge of blackmail in relation to this crime late last year, before another judge. He was sentenced on the basis that he received only \$5,000 of the proceeds of the crime, and that he had spent most of it on alcohol and food before the police recovered the \$1,500 from him. He had no prior convictions and steady employment. He was sentenced to three months' imprisonment, which was wholly suspended, as well as 100 hours of community service.

It would be unjust for me to impose a sentence on Ms Barker that is so markedly more severe than Mr Stanton's sentence as to create a justifiable sense of grievance or to create an appearance of different judges imposing grossly unequal penalties. On the other hand, the need for equal treatment must be balanced against the need to impose a sentence which reflects the

community's sense of an appropriate punishment. There are a number of grounds for imposing a more severe sentence on Ms Barker than the sentence Mr Stanton received. Ms Barker has several prior convictions for crimes of dishonesty but Mr Stanton did not. Ms Barker took advantage of the trust that the complainant placed in her by telling others of activity that he no doubt reasonably expected her to keep secret.

Ms Barker has a history of polysubstance abuse, depression, anxiety and post-traumatic stress disorder. She takes medication for her anxiety, and has consulted a general practitioner and a psychologist in relation to it. She spent a week in hospital in August 2021 as a result of her post-traumatic stress disorder. She committed this crime at a time when she had financial difficulties and was using methylamphetamine.

When she committed this crime Ms Barker was living with a partner. They subsequently separated after 16 years of living together on and off.

Ms Barker regrets committing this crime. Her counsel said that she unreservedly apologised to the complainant. She co-operated with the police to the extent of taking part in an interview and making some admissions. She made some false allegations about the complainant, but withdrew them afterwards. She no longer sees Mr Stanton. She pleaded guilty at a fairly early stage. She said that she was prepared to cooperate with the authorities if asked to give evidence against another man not involved in the blackmail, who is facing a charge of robbing the same complainant. However, Ms Barker did not name him when she was interviewed by the police. What she said and did not say in her interview, it would seem, much reduced the value of any evidence that she might be willing to give.

I originally thought she might be a suitable candidate for a home detention order. However she quite surprisingly failed to attend the office of Community Corrections for the purpose of an assessment report. On the first occasion that she failed to attend there had been a problem as a result of her not having a mobile phone of her own. She was notified of a second appointment. She rang the office of Community Corrections and said that she would not be attending. She asserted that that was because of transport problems. She was in the northern suburbs but did not come to the city for the purpose of that appointment. She could have walked. If she had been able to find a couple of dollars, she could have caught a bus. I do not consider that she is a sufficiently reliable person, having regard to her non-attendance, for her to be considered as a candidate for a home detention order, or a community service order.

I think that in the circumstances, particularly having regard to the sentence imposed on the co-offender, the most appropriate course is for me to impose a short partly suspended sentence of imprisonment.

Anita Ann Barker, I convict you and sentence you to five months' imprisonment. I suspend two months of that sentence on condition that you are not to commit any offence punishable by imprisonment in the next two years.

I order that you pay Danny Charles Farlow \$28,500.00 as compensation for his loss within 28 days.