

STATE OF TASMANIA v JOSEPH EDWARD REYNOLDS
COMMENTS ON PASSING SENTENCE

12 MAY 2023
JAGO J

Joseph Edward Reynolds you have pleaded guilty to two charges of stalking. The first stalking charge relates to the mother of your former partner, whom I shall refer to as AJ. It occurred between 29 August 2015 and 16 March 2019. The second charge relates to the aunt of your former partner. I shall refer to her as BH. That stalking occurred between 9 September 2015 and 21 January 2018.

The background to the matter is that you had been in a relationship with GJ for a period of approximately two years between 2015 and 2017. During the relationship you would regularly stay at her residence. She resided there with her mother, who you came to know. On one visit to the residence, you also met her aunt, BH. Following the breakdown of the relationship, you were told by GJ's mother - AJ - that you were no longer welcome at the residence. Shortly thereafter, you began to use a number of different Facebook profiles to send a series of messages to AJ. The material was offensive, sexually explicit, degrading and, at times, suggested that you had her under observation. It was a course of conduct that could reasonably be expected to cause her apprehension and fear. The messages included pornographic images and videos and audio clips.

Many of the messages contained graphic descriptions of sexual acts that you said you wanted to perform upon her, including acts of rape and other violent sexual acts. You sent her videos of you masturbating. You also used photographs of AJ and members of her family and you would overlay images of yourself holding onto your erect penis, or masturbating and send those explicit photographs to her. You made a collage video containing pictures of AJ and your erect penis and sent that to her. You would also send her audio clips with commentary about sexual acts you would like to perform upon her. AJ also received phone calls in which a person could be heard panting. I do not intend to repeat in detail the content of many of the messages. It is sufficient to say they were disgusting, and undoubtedly caused the complainant to feel offended, apprehensive and scared.

In total there were approximately 100 messages from you to AJ. AJ blocked the accounts that were used by you to send messages. At no time did she respond to any of your messages. This should have made it obvious to you that your messaging was unwelcome. You responded, however, by creating new social media accounts and resuming the sending of messages.

You sent very similar messages to BH, who was your former partner's aunt. Some of the messages suggested that you had observed her in particular places. There were also sexually explicit messages sent to her, together with pornographic images and videos. You sent her videos of you masturbating. Again, when BH would block the social media account you were using to send the messages you would create another profile and continue sending them. In total there were approximately 25 messages sent to BH.

On 8 September 2021 you were interviewed by police. You told police when your relationship with GJ ended you developed a strong hate for her mother because you believed she had manipulated GJ into ending the relationship. You admitted that you had made seven or eight Facebook profiles and sent "hideous and disgusting material" to AJ. You said you did not do it for any form of sexual gratification, but rather the material was sent out of "hate and anger". You said it was like a "revenge type of thing" upon your former partner's mother. You also admitted you sent similar material to BH. Again, you said you had no sexual interest in BH

but it seems you simply sent the messages to her because you had come across her profile on a social media platform.

You acknowledged that you sent videos of yourself masturbating, offensive messages and offensive audio clips to both women. You said you had also downloaded legal pornographic clips and sent those. You told police you could not recall the full details of some of the messages you had sent because you were "so stoned" when you sent them. You told police that at that time in your life you were smoking a lot of marijuana and had "lost all sense of morality". You told police that upon reflection you thought your behaviour was disgusting.

This is very serious criminal behaviour. You relentlessly pursued this course of conduct over many years in respect to both women, but particularly AJ. Your conduct was intense and intimidating. The extent and intrusive nature of your conduct is reflective of your intent to cause emotional harm to AJ, and it obviously had the potential to cause significant psychological harm to both victims. I have read impact statements from both victims. AJ has been badly affected. She has become hyper vigilant, for a long time did not feel safe in her own home, and her mental health deteriorated. Her ability to work was also impacted. BH also felt intimidated by the messages, restricted her use of social media and was troubled by witnessing the impact your behaviour had upon her sister.

It is of significance that for part of the period during which this offending occurred, you were on bail for similar offending. On 16 November 2018 you were bailed in respect to two stalking allegations that were ultimately dealt with in this Court on 17 April 2019. Those stalking charges related to GJ, your former partner, and a female whom you had come across on a social media platform. You were sentenced, by Chief Justice Blow for the two charges of stalking, and six charges of indecency, to five months' imprisonment, wholly suspended on condition that you commit no offence punishable by imprisonment for a period of two years, and on condition you perform some community service. You completed the community service hours and you did not breach the terms of the suspended period of imprisonment. I am told that the imposition of that sentence was the catalyst for you making substantial, positive changes in your life. Other than that matter, your prior criminal history is limited to drug related offending and dishonesty.

You are now 28 years of age, you were 21 through to 24 when the offending occurred. I have had the benefit of reading both a pre-sentence report and forensic mental health report. The pre-sentence report indicates you had a most difficult upbringing with both parents suffering from life threatening conditions. Your father, in particular, suffers from poor mental health and you have often been required to provide assistance following suicide attempts by him within the family home. You were also the victim of sexual abuse, perpetrated by a family friend when you were aged approximately 13 to 14. You now live with your father and act as a carer for him. You have a fairly lonely and isolated existence. You no longer access social media and have no friends or associates outside immediate family members. You were subject to quite severe bullying during your high school years. You have been assessed as having a mild intellectual disability. You have never held long term employment and you have a history of mental health issues, including suicidal ideation, depression and anxiety.

The forensic mental health report confirms you have a complicated history of mental health conditions exacerbated by your long term and heavy use of marijuana. You have been using it since you were 13, apparently as a means of escaping the reality of your dull and unhappy life. I am told between 2016 and your arrest in 2021 you were smoking exceptionally heavily to the

point that you believed you could not function without marijuana. The marijuana facilitated a mental state in which you were oblivious to the concept that there would be consequences for your behaviours. You told the forensic psychiatrist that when GJ ended your relationship, you found it very upsetting, and you were angry with AJ for the role you perceived her to have played in influencing GJ to end the relationship. You said you sent the messages in order to cause her emotional pain. You denied having any sexual interest in AJ. You could not really explain why you sent the messages to BH other than attributing it to the amount of marijuana you were smoking at the time. You did not consider the consequences your actions would have for AJ and BH. You acted brazenly and in a thoughtless and cruel manner, without care as to the harm you were perpetuating.

Whilst the report confirms a diagnosis of major depressive disorder, cannabis use disorder and mild intellectual disability, it does not suggest any of those conditions, alone or in combination, caused or contributed to the stalking behaviour to the degree that it justifies an alteration to my approach to sentence. I am not satisfied there is any appreciable reduction in moral culpability nor any impact on the application of general and specific deterrence. Nevertheless, your mental health conditions generally are something to be taken into account as a relevant background factor, and it is also relevant given your mental health difficulties and intellectual limitations, that the prison environment is likely to be a more difficult and confronting one for you than many others. Mr Reynolds, in simple terms your excessive cannabis use lowered your inhibitions and made you apathetic and you repeatedly sent AJ, and, to a lesser degree, BH messages directed at causing upset, fear and apprehension. Importantly, as to future risk, the forensic mental health report indicates that whilst you maintain abstinence from cannabis, and I am told that you have not used it for nearly two years now, the risk of reoccurrence is low.

It seems that since the imposition of the suspended period of imprisonment on 17 April 2019 you have, in fact, made a concerted effort to make changes in your life. You now have insight into how dreadful your behaviour was. You accept your victims would have felt unsafe, targeted and humiliated. There has been no further offending since the imposition of the suspended sentence – a period of over four years now. You submit through your counsel that the sentencing order imposed that day "scared you straight". Your response to the imposition of the suspended sentence is a significant factor in mitigation. As is your plea of guilty which I accept is indicative of remorse and acceptance of wrongdoing. Given the strong steps you have taken towards rehabilitation, I have decided it is appropriate to impose a further period of suspended imprisonment in respect to these matters.

I make the following orders. Joseph Edward Reynolds, you are convicted on all charges and, as a global penalty, I sentence you to 15 months' imprisonment, wholly suspended on condition that you are not to commit another offence punishable by imprisonment for a period of two years. I make a community correction order to operate for a period of 12 months from today, with conditions that you must report to a probation officer at Devonport by close of business Monday, the 15 May 2023; you must undergo assessment and treatment in relation to substance abuse as directed by a probation officer; you must submit to testing for drug use as directed by a probation officer; you must submit to medical, psychological or psychiatric assessment, or treatment, as directed by a probation officer.

I order that the Registrar appointed under the provisions of the *Community Protection (Offender Reporting) Act* 2005 cause your name to be placed on the Register under that Act and that you comply with the reporting obligations under that Act for a period of five years from today.

I make a compensation order in favour of AJ, the terms of which will be adjourned sine die.

I make a compensation order in favour of BH, the terms of which will be adjourned sine die.

I need to warn you, Mr Reynolds, that if you breach the terms of the suspended period of imprisonment the most likely outcome is that you will be required to serve that period of imprisonment.