

Mr Keeling has pleaded guilty in the Magistrates Court to three charges of perverting justice. The charges relate to the provision of false information to courts in relation to two earlier prosecutions.

On 26 June 2014 Mr Keeling assaulted his then partner at their home by tipping her off a bed, preventing her from leaving her bedroom, wrapping his arms around her tightly, pushing her up against a wall, grabbing her shoulders, and grabbing her by the throat. He was charged with assault as a summary offence under the *Police Offences Act 1935*. On 1 September 2014 he appeared unrepresented before a magistrate, pleaded guilty, and made submissions in mitigation which included three lies:

- He told the sentencing magistrate that around the time of the assault he was still coming to terms with the death of his father. His father was alive and well.
- He said that around the time of the assault he was told that his mother had been diagnosed with breast cancer. The diagnosis had apparently been earlier in the year.
- He said that around the time of the assault he became aware that his then partner had been unfaithful. That was simply untrue.

Those lies are the subject of the first charge before me. On 6 October 2014 the magistrate sentenced Mr Keeling. A conviction was recorded, and he gave an undertaking to be of good behaviour for 18 months. The magistrate said that he was taking into account the fact that Mr Keeling was coming to terms with the death of his father and the health of his mother. I infer that, but for Mr Keeling's lies, the magistrate would not have been so lenient.

In February 2014 Mr Keeling responded to a Facebook message from a 14-year old girl who was trying to sell a phone charger. He used a false name, said he was 23 when he was really 30, and sent a series of messages which amounted to an invitation to engage in unlawful sexual acts for money. By arrangement, they met in a park, where Mr Keeling indecently assaulted the girl twice. First he took hold of her top, pulled her close, and hugged her. After further conversation about the phone charger, he grabbed her by the neck, pulled her face towards his, and kissed her on the cheek. His advances were entirely unwelcome. He was charged under the *Criminal Code* with one count of communicating with intent to procure a person under 17 years to engage in an unlawful sexual act, and two counts of indecent assault. He pleaded guilty before Pearce J on 24 June 2015. The matter was adjourned so that a report could be obtained from a psychologist.

Mr Keeling saw the psychologist and told him several lies:

- He said that his father died in a car accident in late 2013.
- He said that his mother had breast cancer and, despite surgical intervention, had six months to live. It was true that she had been diagnosed with breast cancer, and had had surgery, but she was not terminally ill.
- He said that he had lost his job because of the pending charges. In fact he had resigned following allegations of fraud.

- He said that his former partner had been unfaithful with a number of men and that they had separated as a result of her unfaithfulness in January 2014. In fact that woman had not had sex with other men during their relationship. It had been an "on and off" relationship between April and June 2014. It ended because of the crimes committed by Mr Keeling in relation to the 14-year old girl.

The psychologist accepted Mr Keeling's false statements as truthful and included them in his report, which was provided to Pearce J when the sentencing proceedings resumed. The second charge relates to the false statements to the psychologist.

Mr Keeling's then counsel, after reading the psychologist's report and taking instructions from Mr Keeling, made a number of false statements to Pearce J, believing them to be true:

- She said that Mr Keeling's father had died in late 2013.
- She said that his mother had breast cancer and had six months to live.
- She said that he had lost his job because of the pending charges and because of harassment from the complainant's family at his workplace. In fact there had been no harassment at his workplace, though one member of the girl's family had spoken to a fellow employee about terminating Mr Keeling's employment, without disclosing what he had done in relation to the girl.
- She said that the former partner had been unfaithful with a number of men and that the couple had separated because of that in January 2014.

Mr Keeling's lies to his counsel are the subject of the third charge. His attempts to deceive Pearce J were unsuccessful. The Crown sought and obtained an adjournment so that the police could investigate the assertions made in the plea in mitigation. They discovered that Mr Keeling's father was alive and well in Victoria; that his mother was not terminally ill; that he had resigned from his employment following allegations of fraud; that there had been no harassment at his workplace; and that the information provided about his former partner and their relationship was untrue.

On 6 October 2015 Pearce J sentenced Mr Keeling for his crimes relating to the 14-year old girl. He was sentenced to five months' imprisonment, with three months of that sentence suspended. His Honour also made a two-year probation order. He took into account the fact that Mr Keeling had provided false information in relation to the need for personal deterrence and the prospect of rehabilitation. His Honour referred to "lack of insight into the seriousness of his conduct and unwillingness to accept responsibility".

By providing false information to the psychologist and his counsel, Mr Keeling breached the undertaking to be of good behaviour that he gave to the magistrate on 6 October 2014. As a result, he may be called upon to appear before the Magistrates Court for re-sentencing pursuant to s 60(1) of the *Sentencing Act* 1997.

Mr Keeling is now 32 years old. He has a number of relevant prior convictions, though none for crimes relating to the administration of justice. Between 2005 and 2009 he was dealt with by Victorian magistrates for a series of minor offences of dishonesty. They imposed penalties that included a fine, a community-based order, and a suspended sentence of three months' imprisonment.

The psychologist whom Mr Keeling saw last year identified a number of problematic personality traits, including depressive symptoms, repression of negative emotion, anger, and problems with interpersonal relationships. He recommended ongoing mental health treatment. The probation order made by Pearce J requires him to submit to medical, psychological or psychiatric assessment or treatment as directed by his probation officer. His counsel told me that he was not coping well, and that he had arranged to see another psychologist. He is currently unemployed, but is hopeful of finding work again soon. He formed a relationship with a new partner some 12 months ago, and has received emotional support from her during the previous criminal proceedings and whilst he was in prison. It of course counts in his favour that he pleaded guilty in the Magistrates Court at an early stage and has therefore saved the State the cost and inconvenience of a trial.

This is a serious case. It involved telling lies for the purpose of getting more lenient sentences from two courts. Ordinarily I would have no hesitation in sending someone who committed this sort of crime, even once, to prison. But Mr Keeling went to prison last year, and spent two months there. That should have taught him a lesson. I will therefore take a more lenient course, and impose a wholly suspended sentence, but I will require him to perform a lot of community service.

Michael Robert Keeling, I convict you and sentence you to six months' imprisonment, wholly suspended on conditions that (a) you are not to commit another offence punishable by imprisonment in the next three years; and (b) you are to perform 180 hours' community service. I order you to pay your victims of crime compensation levies of \$150 within 28 days.