

STATE OF TASMANIA v JARROD LEE BRIMFIELD
COMMENTS ON PASSING SENTENCE

5 DECEMBER 2023
JAGO J

Mr Brimfield, you have pleaded guilty to one count of penetrative sexual abuse of a young person. The crime was committed on 1 April 2021. The female complainant was 16 years of age at the time. She turned 17 in August 2021. However, you and she had met in June 2020 when the complainant was only 15 years of age. You were then 25 years of age. Between June 2020 and November 2021, you and the complainant were involved in an intimate relationship. I am told the relationship became sexual within a short period of it commencing. During the relationship, you and the complainant regularly engaged in sexual intercourse. The occasions on which such sexual intercourse occurred are not able to be specified with any particularity, but the fact the relationship between you and the complainant was a sexual one from shortly after it began, is relevant to the context in which you committed the crime to which you have pleaded guilty. You are, of course, to be sentenced only for the crime to which you have pleaded guilty, but you should not be sentenced on the basis that the sexual intercourse, which is the subject matter of the crime, was an isolated occurrence.

On 1 April 2021, you and the complainant went on a camping trip to Lorinna. During the night, you and the complainant stayed together in a swag. You engaged in vaginal sexual intercourse with her. You did not use a condom and you ejaculated during the course of the sexual intercourse. You were aware that the complainant took an oral contraceptive pill. It is not alleged that the act of sexual intercourse was other than with her consent, although I note for crimes of this nature that is of limited significance because of her age.

In August 2021, you and the complainant became engaged, but by November 2021, the relationship had deteriorated and the complainant moved out of your home. The relationship ended shortly thereafter. The complainant subsequently spoke to police about the nature of the relationship she shared with you. On 1 December 2021, you were arrested. You took part in a record of interview. After some initial hesitation, you told police that you had met the complainant when she was 15 years of age and the relationship had become sexual shortly thereafter. You told the police that the relationship was one of mutual love and affection.

Following the interview, you were served with a Police Family Violence Order preventing you from having any contact with the complainant. I am told that you have breached the order by being in her presence in August 2022. There does not appear to have been any difficulties since then. That matter is being dealt with in the Magistrates Court.

You are now 28 years of age. You are single. You have two children to previous relationships. Since being charged with this crime, you continue to see your 12 year old son, but the mother of your 5 year old daughter has refused to allow you to see her. This has been difficult for you. Your upbringing was largely without incident, although your parents separated when you were 12-13 years of age. You completed school and went on to obtain qualifications in panel beating. You have held a number of positions of employment over the years. You hope, after the finalisation of this matter, to relocate to the mainland and pursue employment in the mining industry. You have in the past experienced issues with depression and anxiety but there is nothing before me to suggest that those issues played any role in your commission of the crime. You have prior convictions for common assault and breach of family violence order. Those convictions do not relate to this complainant. You have no criminal history for conduct of a sexual nature.

Your criminal conduct is, however, most serious. The relationship with the complainant commenced when she was 15 years of age and you were 25. The age disparity is reasonably significant in my view. Whilst I reiterate you are to be sentenced only for the crime to which you have pleaded guilty, I must sentence on the basis that the sexual intercourse which occurred on that occasion was not an isolated occurrence. By the time that act occurred, the complainant was in a position whereby she was entrenched in a relationship with you, desirous of your love and affection, and was willing to engage in sexual intercourse with you. But of course, the decision to commence a sexual relationship with you was made when she was only 15 and simply not of sufficient maturity to fully appreciate the consequences of her decision. The law prohibits conduct of this nature because of the potential harm that can result to young persons from premature sexual activity. The law recognises that a person of this age is not mature, nor experienced enough to make considered decisions about engaging in such activity, and not able to adequately recognise or assess the harm that might flow from it. I note by the time of the crime the complainant was a little over four months away from turning 17, but the fact of the matter is she was under age and, as noted, the age disparity between you was not insignificant. As an adult, it was your obligation to ensure that you did not engage in sexual relations with her.

The complainant has not provided a victim impact statement, but it is well recognised that the sexual abuse of a young person can have significant and long term adverse consequences. The relationship that you had developed with her placed you in a position of trust in relation to her and this, of course, made her amenable to the sexual abuse by you. This relationship of trust and the age disparity are, to my mind, aggravating factors. There is a clear need for an emphasis on general deterrence and denunciation of your conduct in the assessment of sentence. The sentence must also reflect the courts obligation to prevent behaviours such as these and protect young persons from exposure to such behaviours. I accept you should receive credit for an early plea of guilty. The complainant has been saved the ordeal of giving evidence and the plea is indicative of your acceptance of responsibility.

I am of the view that the only appropriate sentence is one of imprisonment and that some of that sentence must actually be served in custody. However, because of your early plea of guilty, your lack of relevant prior convictions and the overall circumstances of the crime, I am satisfied it is appropriate to partially suspend the period of imprisonment.

Jarrold Brimfield, you are convicted of the crime to which you have pleaded guilty and sentenced to imprisonment for a period of 15 months. That will be backdated to commence on 3 December 2023 to take into account two days spent in custody on this matter. The last ten months of that sentence will be suspended for a period of two years from the date of your release on condition that you are not to commit an offence punishable by imprisonment during that time. You are not eligible for parole in respect of the custodial part of the sentence.

I am required to make an order under the *Community Protection (Offender Reporting) Act 2005* unless I am satisfied that you do not pose a risk of committing a reportable offence in the future. Having regard to the circumstances of this case, I cannot be so satisfied and accordingly must make an order. I order that your name be placed on the Register pursuant to that Act and that you comply with the reporting obligations under that Act for a period of five years.