

STATE OF TASMANIA v MTB
COMMENTS ON PASSING SENTENCE

8 MARCH 2024
BLOW CJ

MTB, you have pleaded guilty to a charge of persistent sexual abuse of a young person. You sexually abused a teenage girl over a period of some 14 months from January 2021 to February 2022. During that period she was 14 and 15 years old. You were 61 and 62 years old. You are now 64. There is a family relationship of sorts between you and the girl. It was bad enough that she was only 14 and 15 but to make matters worse she had an intellectual disability. You took advantage of the trust placed in you by family members who allowed her to spend time with you. You took advantage of her young age and of her intellectual disability.

The prosecutor has identified to me five specific occasions when you committed unlawful sexual acts upon the complainant. It is significant that they were not isolated acts. If they were isolated acts then you would get a somewhat more lenient sentence. Your conduct on the five occasions involved touching the complainant's breasts on every occasion, touching her genitalia and inserting a finger into her vagina on three occasions, and that happened twice on one of those occasions, putting her hand on your exposed penis when you were driving a car with her in the front seat on one occasion, and, perhaps most significantly, having vaginal sexual intercourse with her on one of these occasions by the side of a highway when you stopped during a journey.

The impact on the complainant has been terrible. I have received a victim impact statement. She is suffering from anxiety and depression. She is medicated as a result. She has been seeing a psychologist and has had about 20 sessions with the psychologist. She has been receiving counselling at school. She has problems with nightmares and distrust of males. She fears that men are going to sexually assault her.

You have been to prison twice for sexual crimes relating to children. You accept that you are a paedophile. In 1999 you were sentenced to 2 years 6 months' imprisonment on two charges of indecent assault and seven of aggravated sexual assault. On that occasion there were two victims, both girls who were 11 years old. They were friends of your daughter. You indecently assaulted them when they stayed overnight and at a public swimming pool. On one occasion you lay naked on top of a girl in her bedroom and ejaculated onto her. Years later, in November 2011, you were sentenced to imprisonment on charges relating to child exploitation material. You pleaded guilty to using a carriage service to access child pornography material and to possession of child exploitation material, and you were given sentences of 3 months' and 6 months' imprisonment - cumulative sentences totalling 9 months' imprisonment.

You obtained cooperation from your victim in this case by giving her presents, including cigarettes, and by telling her not to tell anyone about what you had been doing. However during February 2022 she did begin to tell people about what you had been doing.

The only significant matter that counts in your favour in all of this is that you have pleaded guilty and you have made it clear from a very early stage that you were going to plead guilty. There was a delay between this offending coming to the attention of the authorities in March 2022 and your first appearance before a magistrate in October 2023. You entered a holding plea at that time but it has always been clear that this matter was going to resolve with a plea of guilty and now it has. It is very significant that as a result it has not been necessary for the victim of this offending, or anyone that she spoke to, to be interviewed with a view to them giving evidence. They have known all along, at least since you appeared in the Magistrates

Court, that they would not have to give evidence in court, so they have been spared that and the Court has been spared the expense and inconvenience of a defended hearing.

The only appropriate sentence in all the circumstances is a substantial sentence of imprisonment. I will make provision for parole because it is clear that you intend to seek some sort of help so that you develop strategies so as not to re-offend. However, I will fix a non-parole period that is somewhat longer than the shortest possible period, with the shortest possible period being half the head sentence.

I convict you and sentence you to 4 years 6 months' imprisonment. You will not be eligible for parole until you have served 2 years 6 months of this sentence.

I order that the Registrar appointed under s 42 of the *Community Protection (Offender Reporting) Act 2005* place your name on the register under that Act and that you comply with the reporting obligations under that Act for 15 years commencing upon your release from prison.