

STATE OF TASMANIA v DGT
COMMENTS ON PASSING SENTENCE

ESTCOURT J
27 FEBRUARY 2025

The defendant, DGT, who was born on 25 August 1950, has pleaded guilty to two counts of persistent sexual abuse of a child. I shall refer to the two complainants, who are sisters and the biological daughters of the defendant, as "SH", who was born on 16 January 1975 and "RT", who was born on 13 May 1976.

The defendant's offending, as it relates to the complainant SH, took place between 1 January 1980 and 31 December 1991. The complainant was aged between 5 and 16 years old and the defendant was aged between 30 and 41 years old during that period of time. On an ongoing and persistent basis over a period of approximately 11 years, the defendant sexually abused SH. This ongoing abuse consisted primarily of the defendant touching and rubbing her to the vagina, as well as putting his mouth on her vagina and licking her genitalia.

Within the context of this ongoing conduct, the defendant performed unlawful sexual acts on SH on four specifically identified occasions between 1980 and 1989. The four sexual offences were of the nature described and each amounts to the crime of indecent assault.

The defendant's offending, as it relates to the complainant RT, took place between 1 January 1983 and 31 December 1991. RT was aged between 7 and 15 years old and the defendant was aged between 33 and 41 years old during that period of time.

Throughout this time, the defendant sexually abused the complainant however, during this period, he performed unlawful sexual acts on RT on three specifically identified occasions. The three sexual offences were of the nature described and each amounts to the crime of indecent assault.

In around 1991, when SH was aged 16 years old, she started to constantly think about what the defendant had done to her. Around this time, she often became overwhelmed with feelings of shame and embarrassment and this would cause her to cry.

During such a time when SH was upset, her mother overheard her crying and asked her what was wrong. SH disclosed to her mother that "Dad has been abusing me". She told her mother that it had been happening for as long as she could remember.

Later on that same day, RT told SH and her mother that her father had also abused her.

In response to the disclosures, the complainants' mother rang the defendant and confronted him about the allegations. The defendant initially denied the allegations concerning SH but when pressed, made partial admissions to the conduct, stating "Oh for Christ's sake that was years ago". When confronted about also molesting RT, the defendant again denied the allegations at first, before admitting that he did do this.

At the time, the matter was not reported to Police. Instead, both complainants attended counselling at Laurel House as organised by their mother.

At a point in time between 2005 and 2007, SH reconnected with the defendant and as part of this, had a conversation with him over text message where she raised the topic of what he had

done to her and RT. Essentially, she confronted him in an attempt to obtain an explanation or apology. During this conversation, the defendant made the following admissions:

In the context of discussing RT having some "childhood issues" the defendant wrote:

"I find it extremely difficult to live with those issues. I have not contacted either of you to help you forget and it hurts. I can't change what happened but I can tell you I have always loved the three of you."

Later, after the complainant asks if he has ever thought to say sorry, the defendant wrote:

"I always knew sorry would never be acceptable that is why I never tried. I don't ever want you or [RT] to forgive me but if you can find in your heart a fragment of the love u once had for me so long ago, a love so much exploited by me, we could have a long distance father daughter relationship. I mean just to keep in touch."

In 2019, both complainants reported the matter to Tasmania Police and participated in vulnerable witness interviews. As a result of this, an investigation commenced and on being interviewed the defendant blamed his alcohol consumption and also said that on occasions he had thought it was his partner he was touching. These explanations are not accepted by the Crown.

Given the amount of time that has passed since the offending, its familial nature and the defendant's present age and age on release from prison, I find no need to make an order under the *Community Protection (Offender Reporting) Act 2005*.

I have had heart rending victim impact statements read to me by both complainants and I need only say that the defendant has destroyed their lives and they are still suffering on an ongoing basis, psychologically, in their relationships and in their career aspirations.

I have heard comprehensive submissions on behalf of the defendant from his counsel, Mr Slicer, and a psychologist's report from Mr Damien Minehan, but apart from the defendant's plea of guilty, for which he is entitled to a discount on an otherwise appropriate sentence for its utilitarian benefit, I find that there are no significant mitigating factors and no factors warranting a modification of sentence. I note that the defendant has no relevant prior convictions and has been a man of otherwise good character. That is not unusual in cases such as this, nor is it relevant.

Counsel for the State, Ms Pennington, made the following submissions: she said that section 11A(1) of the *Sentencing Act 1997* prescribes the following relevant aggravating features of the accused's offending. They are:

- the victim being under the care, supervision or authority of the offender;
- the victim being under 13 years of age (for at least a portion of the offending period);
- the offender committing the offence in whole or in part in the presence of any other person or persons, besides the victim (relied upon for the particular occasions when the sexual offending occurred when the victims were in shared bedrooms with their sibling(s), and/or in respect of Occasion 4 of Count 1, when the offending occurred in the presence of SH's friend).

The crimes are of high objective seriousness. The offending involved a breach of the victims' trust of the most serious kind, by a biological parent, commencing when they were very young

and vulnerable in his care. The offending similarly involved a breach of the trust held in him by the victims' mother to care for their daughters.

The impact upon the victims, as articulated by them in their victim impact statements, has been severe. The consequences of the accused's offending have been far-reaching and devastating. The potential harms the Court has long recognised for survivors of childhood sexual abuse have been realised by the victims in this case.

While the number of particularised occasions is limited in respect of SH, the conduct was perpetrated against a background of ongoing and frequent offending of a similar nature. In respect of both victims, the conduct spanned a period of many years, commencing at a time when the complainants would have been incapable of understanding the nature of the accused's acts, and continuing into a period in which they would have understood the sexual nature of those acts, a period of particular importance in respect of the victims' psychological and emotional development.

While it is accepted that there is value in the plea of guilty, in that the victims have not been required to give evidence, an absence of remorse is indicated by the accused's police interview.

I accept those submissions.

General deterrence, punishment, vindication of the victim and community protection are the primary sentencing factors in a case such as this and the extent of the impact of the offending on the victims is a relevant consideration. I do not overlook that each year of my sentence represents a substantial proportion of the remainder of the defendant's life. And I do not lose sight of the fact that each of the unlawful sexual acts was an indecent assault and that no penetrative behaviour was involved. Having said that, the extent of the overlapping offending against two complainants over many years must be taken into account.

The defendant is convicted on both counts and I impose a single sentence of eight years' imprisonment, backdated to 10 May 2023. The defendant is not to be eligible for parole until he has served half of that sentence.

Pursuant to s 11 of the *Sentencing Act*, where a court imposes a single sentence on an offender for more than one child sexual offence, the court is to identify the sentence that would have been imposed for each child sexual offence, had separate sentences been imposed. Despite the differing number of specifically identified unlawful sexual acts against the two complainants, I see no sound basis for distinguishing between the two counts. Had I sentenced the defendant separately, I would have imposed a sentence of four years imprisonment on each count with the maximum allowable parole period.