

Mr Gall-Strauss, you have pleaded guilty to one count of persistent sexual abuse of a child.

The complainant is a female who was at the time aged 13. She was subject to a care and protection order and living in a therapeutic residential care facility. You were 19 years of age. You and she met online. Shortly after you met, you asked her if she wanted to have sexual intercourse with you and she agreed. When you first had sex, she told you and you believed that she was 16. However, soon after she told you that she was really 13 and this was confirmed by staff at her residence. Despite this, you continued to collect her from the facility, and take her to your home where you and she engaged in sexual intercourse, still with her consent. This occurred on at least five occasions after you found out her real age. You admitted to police that you did not wear a condom during any of the acts of sexual intercourse. The sexual conduct came to an end after police became involved upon receiving a notification from the residential care facility.

You are now 24 years of age. I have received a psychological assessment. The assessment confirms a primary diagnosis of fetal alcohol spectrum disorder together with associated diagnoses of a mild intellectual disability and ADHD. It also discusses abuse suffered by you in early childhood at the hands of your biological parents. At the age of three, you were placed with foster carers. You grew up with them and they still provide you with significant support. You need this support because your intellectual and psychological conditions result in you having real difficulty with independent living. You live alone, but you struggle to manage the tasks and skills involved in day-to-day living. You also have developed a habit of binge drinking on a daily basis, and this is causing problems with your physical health. You are married and have a young child, but you and your wife are separated. You have some NDIS funding but your carers consider that it is inadequate to meet the full extent of your needs. They believe that you need to be in supported accommodation but the NDIS funding does not extend to this.

The psychologist has expressed the opinion that your neurodevelopment disorders mean that you have difficulty making appropriate social judgements, and this would have impacted your decision to continue to have sex with the complainant. The psychologists also believes that you would have more difficulty coping with prison than others who do not have the same disorders. I accept the psychologist's opinion in this regard and will take these matters into account.

This case has now been hanging over your head for a number of years. For some reason although you were interviewed by police in 2020, you were not arrested in respect of this charge until 17 July 2023. Your lawyer gave an early indication to the DPP that the case could be resolved on the basis of a plea of guilty, but this did not occur until 27 November 2024. Most if not all of this delay is not your fault. It follows that I should take the delay into account in your favour as a mitigating factor. You also deserve credit for the plea of guilty, particularly because it has avoided the need for a trial and for the complainant to give evidence.

At the time of committing this crime you had few prior convictions and nothing for sexual offending. However, in 2024 you were convicted after a trial, of three offences of indecent assault. These offences were committed in 2020 soon after the offending with which I am dealing stopped. They were committed against a woman of your own age who you met on social media. You were sentenced to a wholly suspended term of imprisonment of three months and your name

was placed on the register under the *Community Protection (Offender Reporting) Act* for a period of four years.

As I have already said, the complainant in this case consented to your conduct but this provides you with little mitigation. You knew it was wrong to have sex with her but you did so anyway. She was not old enough to make considered and mature decisions about engaging in sexual activity with you. Being the subject of sexual abuse at such a young age can have serious and lifelong consequences. I take this into account notwithstanding that she has declined to make a victim impact statement.

It follows that your crime was very serious. However, I will take into account a number of mitigating factors, including that the age difference between you was relatively small, that you were still very young when you committed this crime, the impact of the intellectual and psychological disorders that the psychologist has described and that the conduct did not last longer than a few weeks. I also take into account that although you continued to take advantage of her after you learned her true age you did not start the relationship with that knowledge. Finally, you are entitled to credit arising from the delay and your plea of guilty.

Because the crime is serious, it deserves the punishment of prison. However, I will give you a chance to avoid having to go to prison by imposing a wholly suspended sentence. What you must realise is that if you commit more offences in the future, even if they are of a different type to these crimes, it is highly likely that you will have to serve the time in prison. However, if you do not commit further offences during the period of suspension, you will not have to go to prison. I note also that the presentence report recommends a period of community supervision, in particular to address the risk of further sexual offending and the alcohol abuse. Further, you have been assessed as suitable for community service and I think this would be useful to apply some actual and immediate punishment. I intend to make the suspension of the prison sentence conditional upon the community service and the supervision.

Accordingly, the orders I make are as follows:

- a You are convicted of the crime to which you have pleaded guilty;
- b You are sentenced to a term of 18 months imprisonment, which will be suspended for a period of 18 months on the following conditions:
 - (a) that you are not to commit another offence punishable by imprisonment during that period.
 - (b) that you will perform community service for a period of 175 hours. The court notes that the sections referred to in s 24(5A) of the *Sentencing Act* apply to this condition. For the purpose of those provisions:
 - i you must report to a probation officer at the office of community corrections in Launceston within three clear days of today and
 - ii the operational period of the order is 18 months.
- c That you will be subject to the supervision of a probation officer. You must comply with this condition for a period of 18 months. That period will commence from today. The

court notes that the conditions referred to in s 24(5B) of the *Sentencing Act* apply to this condition. These include that you must report to a probation officer within three clear days of today. In addition to the core conditions the order shall also include the following special conditions:

- (a) you must, during the operational period of the order,
 - i attend educational and other programs as directed by the court or a probation officer;
 - ii submit to the supervision of a probation officer as required by the probation officer;
 - iii undergo assessment and treatment for alcohol dependency as directed by a probation officer;
 - iv refrain from consuming alcohol if so directed by a probation officer
 - v submit to testing for alcohol use as directed by a probation officer;
 - vi submit to medical, psychological or psychiatric assessment or treatment as directed by a probation officer;

- d 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 am not satisfied of that matter and, accordingly, must make an order. The maximum reporting period is 15 years. However, given the supervision, I think a lesser period is adequate. Accordingly, 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.