

STATE OF TASMANIA v LUCAS CHARLES GILLIE
COMMENTS ON PASSING SENTENCE

23 DECEMBER 2025
WOOD J

Lucas Charles Gillie has been found guilty of one count of rape.

The defendant was aged 25 years at the time of the crime and was in a relationship with the complainant. They have a child together, born in 2017. At some stage in the past, they had broken up but resumed their relationship in approximately 2020.

It is for me to consider the evidence before the jury and determine the facts of the crime for the purpose of sentencing. Facts adverse to the defendant must be established beyond reasonable doubt. In making my findings, I note that I found the complainant's evidence to be both honest and reliable.

On the day of the incident, 5 April 2022, the complainant was at home on the couch in the living room watching a television program and speaking with her cousin on the phone on a video call via Facebook messenger. The complainant does not like wearing clothes; she was wearing underpants and not a bra, and had a blanket wrapped around her.

The cousins were a similar age, both young mothers and had an honest and a close relationship. In the complainant's words, they were "mucking around being stupid". At one stage the complainant was talking about a new bra her mother had bought her. The complainant's cousin was teasing the complainant about whether she had been having sex with the defendant before the video call.

The light-hearted banter with some sexual or nudity references continued between the cousins. The defendant was present and made the odd comment.

The defendant pulled down the blanket exposing the complainant's breasts. The complainant pulled the blanket back up, telling him that she felt violated. She meant this as a joke and he laughed.

The defendant reached under the blanket and put his hand between her legs and tried to rub her vagina through her underwear. She told him no, and to stop, and pushed him away. He stopped straight away.

The conversation and banter between the cousins continued in the same vein. The defendant went into the kitchen and said to the complainant, "If she keeps going, I'm going to fuck you in front of her." The complainant replied, "You wouldn't dare", and giggled to make a joke of it.

The defendant approached the complainant. At about this stage the defendant switched the video setting off but the audio call was still active. He forcefully pushed the complainant backwards onto the couch and removed her underwear. When the defendant pushed her back onto the couch, she hit her back on the wooden part of the couch and told him, "That hurt".

She told him no, stop, she did not want to have sex. She started laughing due to fear. This response is something the complainant does when she is scared.

The complainant was yelling at the defendant, "Get off", "no", and to stop. At this stage she was still laughing as a response to the fear she was experiencing. She continued laughing for

a short period. At another stage she was biting her hand and hiding her face, which she also does sometimes when distressed.

The defendant picked her leg up and put it over his shoulder. He spat on his hand and wiped it onto his penis and penetrated her vagina with his penis. She physically resisted him moving her legs while continuing to tell him to stop. She was kicking out and telling him it hurt. She said to him, "No I don't want it, get off", and was still yelling at him to stop. These protests were repeated, and as well, she told him she was in pain, and she needed to go to the toilet.

The complainant's cousin, and also a male friend of hers, were still present on the audio call. They told the defendant in forceful terms, "This isn't consensual" and he needed to stop. That was repeated, and the complainant's cousin also yelled out, in terms such as, "Is my cousin fucking okay", and swore angrily at the defendant.

The complainant's cousin heard the complainant repeatedly say, no, and to stop, and she sounded very upset.

The defendant continued having sexual intercourse with the complainant.

He muted the call so that while the complainant's cousin could be heard, she could not hear the complainant and the defendant. The complainant's cousin repeated what she had been saying in terms that what was happening was not consensual.

The defendant hung up the call. The complainant continued to yell at the defendant, telling him to stop, but the defendant continued to have sexual intercourse with her.

She continued protesting, at one point, asking him whether he was "Done yet?" He responded, "Almost, wait a minute". At another point, she said, "You're not listening, no".

The complainant told him, "I really want you to stop." After another two or three minutes, the defendant asked the complainant, "So you want me to stop?" The complainant responded that she had been asking him to.

The defendant then stopped having sexual intercourse with the complainant. He did not ejaculate. She pushed past him and locked herself in the bathroom and was distressed and crying. The defendant apologised while standing outside the bathroom door. He told her he was so, so sorry, he thought she was joking. He asked whether she was going to charge him and she said in reply that that would be his fault because he had raped her. He replied he did not mean to.

The complainant called her mother in a distressed state and told her that the defendant had just raped her. She came and collected the complainant and drove her to her home at Eagle Hawk Neck.

The defendant gathered some belongings and left the house. He had telephoned his mother and arranged for a lift to his grandmother's house with his step-father.

In text messages with his mother, he mentioned he was receiving mixed signals; she was both laughing and saying stop. He agreed he should have stopped the first time she said to. He also said he hated himself for it and always will. In a similar vein, in a text message with the complainant that night he apologised but said he did not think she was serious because she was laughing. He made a similar remark to his step-father in the car, telling him he was confused,

he did not know if she was mucking around or if she was serious. The defendant said he should have stopped when she said stop.

The defendant was interviewed by police and made admissions that he had had sexual intercourse with the complainant. He told police that she was laughing and saying stop at the same time, so he was getting "mixed signals" and was not sure whether to stop or not. He acknowledged to police he should have stopped when she said to the first time.

He exhibited genuine regret and remorse during the police interview.

The defendant was aware at the time of the rape that the complainant laughs as a response to a frightening situation. He had attended appointments with her for the purpose of therapy when this topic was discussed.

I have a victim impact statement from the complainant. She faces difficulties in her day-to-day life and experiences ongoing emotional harm. She cannot understand how her partner could have inflicted this harm and feels betrayed. The defendant is someone she trusted and he was aware she was vulnerable because of past trauma. One of the many difficulties she faces is in relation to parenting her and the defendant's child. She is having to manage the questions their child asks about his father, and she does her best to speak of him in positive terms but this is challenging because of what the defendant has done.

The crime has had a significant effect on the complainant's relationship with family members. The complainant and her cousin are no longer close as a result of this incident. They used to be like sisters but they are both so affected by what they have experienced that their relationship is damaged. Evidently, interacting with each other is now painful.

Because of the retributive conduct of others over which neither the complainant nor the defendant have control, Child Safety Services have suspended her visits with another of her children. At the time of the crime the complainant and defendant were making progress towards reunification with their child as a family unit. Now, the relationship between the complainant and the defendant is at an end. Their child is in the custody of Child Safety Services and the complainant has access visits with him.

The complainant is bravely trying to face her future, she refuses to be a victim and is intent on wanting to get on with her life and for the damage to stop.

The defendant has no prior convictions for sexual offending or violence. He was dealt with in 2017 in the Magistrates Court for an offence of destroy property, and two offences of breach of family violence order, and one breach of bail conditions. The complainant was the person protected by that order. The breaches involved contact prohibited by the order. The defendant also has a number of other convictions that are not relevant.

The defendant's background and circumstances must be taken into account. His parents separated when he was three years of age. He had a very disadvantaged childhood; he grew up with his mother and a punitive step-father, and there is a history of early childhood neglect. He was diagnosed, as a child, with attachment disorder. He received therapeutic support from a psychologist. As a child he was assessed as having a full-scale IQ in the low average range of functioning with particular weakness in verbal comprehension. He was in the care of his grandmother from when he was 11 years of age. He had learning difficulties and was severely

bullied at school. He has also been the victim of assaults as an adult. He has experienced episodes of depression from a young age.

Despite limited schooling and vocational training and qualifications he has had regular employment since leaving school. He has worked in a range of positions including labouring work and as a mechanics assistant. He is very interested in being a qualified mechanic and hopes to pursue an apprenticeship.

I have a report from Dr Jennifer Wright dated 4 October 2025. In Dr Wright's opinion, the defendant presents as someone who has been impacted significantly by childhood neglect and trauma that has limited the development of his capacity to communicate and understand interpersonal situations. She also notes he has difficulties with comprehension of verbal information.

Dr Wright has given consideration to whether the defendant's mental health conditions contributed to the commission of the crime, referring to whether he was impaired by his symptoms of attachment disorder, major depressive disorder, or problems with verbal comprehension. In her view, the defendant had difficulty comprehending what the incongruence between the complainant's statements of "no" and "stop" and her laughing meant. Further, given the information available, in Dr Wright's opinion it makes sense that it took him longer to process that the complainant was not consenting than it would take a person without his conditions.

In Dr Wright's opinion the defendant's conditions rendered him substantially impaired in his ability to exercise appropriate judgement and to appreciate the wrongfulness of the conduct across a reasonably short period of time.

It is appropriate now to specify how I apply Dr Wright's opinion to the facts as I find them to be. The crime of rape is constituted by the act of sexual intercourse without consent. A person has a defence if they have an honest and reasonable mistaken belief that the other person was consenting. In this case, the complainant did not consent at any time to the sexual intercourse that took place. Further, the defendant did not have a positive belief at any time that she was consenting. The entirety of the act of sexual intercourse was a criminal act.

Applying Dr Wright's opinion, there is though in this case a mitigating factor, which reduces to some extent the gravity of the crime, which concerns the defendant's moral culpability for the crime. I accept that at the beginning of the sexual intercourse, the defendant did not realise that the complainant was not consenting. I accept there was some confusion over a relatively short period before the defendant processed the situation, that is, processed the complainant's protests and the verbal information that she was not consenting.

It became clear to the defendant, however, that she was not consenting and he continued to have sexual intercourse with her with that awareness. There were multiple occasions when he received clear messages that she was not consenting before he desisted.

I take into account the defendant's difficulties in processing the situation for that relatively short period and treat that as mitigating. I wish to make it clear that if there was any impoverished understanding of what consent means in law, that does not diminish moral responsibility.

Returning to Dr Wright's report I note she has assessed the defendant's risk of committing a sexual offence in the future as low as he does not present with any of the factors strongly associated with such a risk. He would benefit from psychological intervention with a psychologist skilled in a therapeutic modality to assist him to develop his social communication skills so as to stabilise his relationships and develop strategies to clarify when he does not understand what others mean, especially in the context of intimate relationships. Such intervention would reduce his risk of further offending.

In her opinion, the defendant will find imprisonment difficult given his history of childhood trauma and he will be vulnerable to episodes of depression and exploitation from others. I take that into account as well. She notes that this could be managed by existing prison risk management protocols and support from prison psychologists. Dr Wright's report has been provided to the prison authorities to facilitate that support.

I have a pre-sentence report from Community Corrections dated 19th December 2025. The defendant is considered suitable for community-based supervision and is suitable for referral to the Assessment and Intervention Unit, which provides targeted intervention for people convicted of sexual offences. The report usefully highlights that Mr Gillie may be able to access services and support by an application to the National Disability Insurance Scheme when he is released.

I note the defendant has a positive attitude to attending counselling and therapy. This was demonstrated when he worked with Child Safety Services towards reunification with his son. He completed parenting courses and attended counselling throughout the relationship.

In my view, his background and history of childhood deprivation as well as his positive attitude to intervention warrant significant weight being given to his reform.

In terms of his prospects of reform, I note he has positive and supportive relationships within the community. His father and grandmother visit him regularly in prison. He remains close to his grandmother, and he was living with her, in fact, when he was remanded in custody. The defendant is currently in a relationship, they have a child, and his family situation should provide an added incentive for engagement with Community Corrections.

In further considering his prospects of reform, I note that the defendant has insight into, and appreciates, his wrongdoing. His insight and understanding is likely to further develop with the support that is recommended.

While I am satisfied that I should give particular weight in this case to the defendant's individualised circumstances and his prospects of reform, it is essential that the sentence reflects the nature and gravity of this crime.

The crime of rape is inherently very serious. Crimes such as this have a lasting impact on the lives of victims, and the courts are well aware that the emotional and psychological harm is likely to be felt by the victim for many years.

In this case, the crime committed by the defendant involved a betrayal of trust, and has caused the complainant substantial harm and trauma. She was entitled to be safe in her relationship and in her home. She was vulnerable because of her own background, of which Mr Gillie was aware.

An additional aggravating factor in this case is that the crime occurred within the hearing of others, adding to the degradation and humiliation experienced by the complainant.

General deterrence and denunciation are important sentencing goals. It is essential that potential offenders can see that the courts will respond with heavy sanctions when sentencing offenders for non-consensual sexual conduct committed within relationships.

The sentence will be moderated to take account of the defendant's circumstances and to promote his prospects. I am aware, that for him, the sentence will nonetheless be a heavy sentence. I have explained why such a heavy sentence is required.

I record a conviction for the crime of rape. I impose 3 years and 6 months' imprisonment, backdated to 11 September 2025, which is the date I remanded you in custody. I suspend 15 months of that sentence for a period of two years subject to strict conditions which are to be in place for two years from your release from prison.

For that period, you are not to commit an offence punishable by imprisonment for a period of 2 years from the date of your release.

Further conditions are that:

- You are subject to the supervision of a probation officer.
- You must report within 2 working days following your release from custody to a probation officer at Community Corrections, 75 Liverpool Street, Hobart.
- You must report to a probation officer as required by the probation officer.
- You must comply with the reasonable and lawful directions of a probation officer or supervisor.
- You must not leave, or remain outside, Tasmania without the permission of a probation officer.
- You must give notice to a probation officer of any change of address or employment before, or within 2 working days after, the change.
- You must submit to the supervision of a probation officer as required by the probation officer.
- You must engage with the Community Corrections Assessment and Interventions Team for assessment and, if deemed suitable, attend and complete recommended interventions as directed by a member of that Team or a probation officer.
- You must attend, participate in, and complete the Family Violence Offender Intervention Program as directed by a probation officer.
- You must submit to medical, psychological or psychiatric assessment or treatment, as directed by a probation officer, including directions that you must attend appointments with a general practitioner for the purpose of preparing a mental health care plan.
- You must comply with the directions of a probation officer in relation to the making of an application for the National Disability Insurance Scheme.
- You must attend educational, vocational, and other programs as directed by a probation officer.

I am not imposing what is called a community correction order but imposing these individual conditions as conditions of a partially suspended sentence.

In relation to the balance of the sentence, which is 2 years and 3 months' imprisonment, backdated to 11 September 2025, I allow the minimum non-parole period. You are not to be eligible until you have served half of that term.

I make an order pursuant to the *Community Protection (Offender Reporting) Act 2005*. I order that your name be placed on the Register and that you comply with the reporting obligations under that Act for a period of 3 years following your release from custody.

I order that the crime of rape be recorded as a Family Violence offence.