

STATE OF TASMANIA v CBF
COMMENTS ON PASSING SENTENCE

2 SEPTEMBER 2026
WOOD J

CBF has been found guilty of one count of rape. He committed this crime during the night of 2 May 2021.

The complainant, AMS, was 10 years of age, just about to turn 11. She was in grade 5 in primary school. The defendant is her uncle. Before that night she saw him as her "fun" uncle, more like a big brother. A few years before, the defendant had lived with the complainant's family, her siblings and her mother for a period of time.

The complainant, and her family, the defendant and members of the extended family lived in, or on the outskirts, of a small town in the midlands of Tasmania. From time to time, members of the family went camping at Tooms Lake. On Friday 30 April 2021, the complainant's cousins were going camping with their father, the defendant and other family members and the complainant asked if she could go with them. Her mother agreed. She trusted the adults, including the defendant, as family, to look after her daughter and ensure she was safe. The expectation was that the complainant would sleep in a "camper" with an adult female cousin, who owned the camper. This is what eventuated on the Friday night. The defendant was sleeping in a swag that was set up near the campfire.

In sentencing the defendant, I must determine the facts of what the accused did, consistent with the jury's verdict of guilt. I set out the following findings. I am satisfied of these facts beyond reasonable doubt. It will be seen that I have accepted the complainant's account. I found her to be an honest and reliable witness. So did the jury. The jury's verdict of guilty means that they were satisfied beyond reasonable doubt that the complainant was a truthful witness and that she gave honest and reliable evidence about the defendant's conduct.

On the second night at the Lake, the family were all sitting around the campfire. The complainant said she was tired and the defendant asked her if she would like to lie down in his swag. The complainant said yes, and got into his swag. She soon fell asleep. As the night wore on, people retired for the night, leaving the defendant, and one or two others sitting around the campfire drinking. Then they too went to bed.

The complainant was asleep on her stomach. The defendant got into the swag. At about that time, the complainant woke up, hearing a noise like a zip which might have been the defendant getting into the swag. At some point soon after, the defendant started pulling down the complainant's leggings at the back. The complainant pretended to still be asleep.

The defendant pulled her leggings down exposing her bottom. She felt his fingers on her bottom. He moved into a position with his knees on either side of her body and penetrated her anus with his penis and moved his penis back and forth, approximately three times. The penetration was partial; described by the complainant as "a little bit". It caused the complainant some pain. She moved, pretending to wake up, and the defendant withdrew his penis and got off her. He put his arm around her and said, "Are you alright, darling?". She replied, "Yeah, but I need to use the toilets". In the complainant's words, she "fake lied" to get out of the swag, which was good thinking. She got out and sat by the campfire. In a frightened state, she immediately texted her mother and older sister, telling them she had been raped and asking them to please come and pick her up, she was scared.

The defendant came out to the fire, and the complainant pretended she was playing a game on her phone so the defendant would not realise she was texting her mother and sister. He asked her if she wanted to "hotspot" off his phone. He also asked her if she wanted to get back into the swag. The complainant said that she wanted to sleep in the camper, and went over and got into the camper. I accept the defendant may have helped her unlatch the door so she could get into the camper. Once inside, she texted her mother and sister again.

Early in the morning, the complainant's sister read the text and woke her mother, who rang the complainant. She was in the camper with cousins and another family member. The complainant was distressed and crying. Family members at the campsite became aware of what the complainant had communicated to her sister and mother. The complainant was questioned by her adult cousin in a way that challenged her account. The complainant could tell she was not believed.

The complainant's mother and brother arrived at the campsite. Emotions were running high and the complainant's brother physically confronted the defendant and punched him. The complainant, her mother and brother left the campsite, and her mother drove to a regional hospital, with the complainant in a very distressed state. While the complainant's mother went into the hospital, the complainant waited outside. The defendant's mother arrived at the hospital and interrogated the complainant while she was waiting for her mother. Again, it was clear to the complainant that she was disbelieved.

The defendant is not responsible for how his family treated the complainant in the aftermath of the crime. However, the responses of family members at this stage, and later responses are indicative of how the defendant's sexual assault of the complainant has ruptured the family.

The hospital would not admit the complainant and her mother took her to the local police station where a preliminary interview was conducted, and the officer obtained some limited information about what had happened. The recording of the interview clearly portrays the complainant's acute difficulty and distress in speaking about what the defendant had done to her. She managed to utter the words, her anguish, which was difficult to witness, revealing how disturbing and abhorrent the child found the defendant's conduct.

The police officer arranged for the complainant to be interviewed at Glenorchy Police Station. She participated in an interview. During the second interview, the complainant's distress was again evident. She was unable to say what the defendant had done to her. In the end she wrote down on paper key words relating to the nature of the sexual assault. She then participated in a sexual assault examination at the Royal Hobart Hospital.

Meanwhile, the defendant travelled from the campsite to his home where he was spoken to by police. He co-operated fully with the investigation, providing items as requested for forensic examination.

The defendant is not entitled to the mitigatory benefit of a plea of guilty which would have saved the complainant the additional distress of having to give evidence as a 16 year old and would have avoided her mother and sister also having to give evidence. I take into account that the defendant instructed his lawyer to admit certain facts that meant that the complainant and her sister did not have to be recalled to give further evidence.

There has been considerable delay in resolving this matter. The crime was committed more than five years ago. The complainant immediately told police and the defendant fully cooperated, but it took two years before the defendant was even charged. That period of uncertainty and subsequent delay has taken its toll on everyone involved. The impact of delay is particularly marked in this case involving a young complainant, and the complainant, the accused, their families and extended family living in a small community. The matter of delay and the multiplicity of reasons have been discussed at an earlier hearing and it is hoped that this case will be a catalyst for change, and in fact, it seems that at least some of the reasons have been addressed.

I find that when the defendant committed this crime, he had consumed a considerable amount of alcohol and was intoxicated. His intoxication explains his disinhibition and brazen criminal conduct when family were nearby. However, his drunkenness is obviously no excuse and does not reduce, in any way, the seriousness of his crime.

I find that the crime was committed without any planning or forethought. He commenced assaulting the complainant when he thought she was asleep, knowing full well his conduct was without her consent. The defendant saw her vulnerability, as a sleeping child, as presenting him with an opportunity for sexual gratification and he took advantage of her vulnerability in a terrible way, without any thought or care for the child.

The defendant was a trusted person in the complainant's life. He was the complainant's uncle and was close to his sister, the complainant's mother. She described the defendant as having been one of her closest friends. The crime committed by the defendant was a grave betrayal of the complainant's trust and her mother's trust.

The defendant stopped once he realised the complainant was awake. I find the comments he made in the swag and at the campfire were designed to remind her of what a good uncle he was and mollify her in the hope she was not aware or not completely aware of what he had done or, if she was aware, that she would not tell anyone.

I take into account the aggravating aspects of the crime, as stipulated by s 11A, of the *Sentencing Act*, the complainant's young age, the breach of trust, that the defendant, with other adults, had a level of shared responsibility for supervising the complainant that weekend and once the complainant was in his swag, his responsibility for her increased greatly.

I have been provided with a victim impact statement from the complainant and one from her mother, which I have read. As I said at the time I received those statements, they assist the Court's understanding of the significant and long-term impact of such crimes.

Before the crime, the complainant was a happy child who loved spending time with family and friends and going to school. The crime has dramatically changed her life. She has been deeply traumatised by the crime. She has been diagnosed with mental health conditions and suffers symptoms of psychological harm. The complainant compellingly describes the pervasive and significant harm she has experienced. The complainant's statement reflects the kind of profound and lasting impact which the courts commonly see resulting from crimes such as this.

The complainant lost her entire extended family and was bullied and harassed by some of them. I note again there is no suggestion that the defendant bears any responsibility for this dreadful

behaviour. The complainant felt very unsafe in her own hometown, she did not want to leave the house and ultimately had to move away.

Now, as a 16 year old, she faces struggles and difficulties every day. She has demonstrated courage in the face of these difficulties and in speaking up about what happened to her. The courts depend on young people having the courage to come forward and disclose crimes committed against them so the courts can dispense justice and by doing so, ultimately protect others in the community.

This crime has also inevitably affected the lives of the complainant's mother and her immediate family. It has been devastating for her mother to witness the immediate impact of the crime and then the day to day suffering of her daughter since then. Her mother explains that she has suffered with the knowledge that she was not able to protect her daughter from the person she thought she would be safest with. It is a terrible impact of such crimes on children that their parents often feel guilt or blame themselves for conduct which was beyond their contemplation, an act which was to them incomprehensible. It is the defendant CBF who is to blame, and only he is to blame for the terrible crime he committed. Her mother describes her daughter as determined not to be beaten by the trauma caused by what the defendant did to her and speaks with pride of her inner strength and determination to live a good life.

Denunciation and vindication of the victim are important sentencing objectives.

In order for the sentence to be a just sentence, I must take into account the defendant's personal circumstances.

He was 24 year old at the time of the crime, due to turn 25 later that month. He is now 30 years of age.

The defendant has an industrious working history as a shearer, a rouseabout and a warehouse operator. He has been working full-time since the age of 16 years. I have a reference from his current employer and another from a previous employer. He has been a valued employee and is regarded as reliable and hard working. He is described as respectful and considerate of others in the workplace. These qualities are a positive factor in terms of his prospects of reform. I note that he has the support of his family which will also be a positive factor in terms of his rehabilitation and important for his reintegration once he has served his sentence.

The defendant is in a relationship and he and his partner have a child, approximately one-year of age. His current employer speaks of his care and commitment towards supporting his partner and child. Imprisonment will be felt by Mr F now as a particularly heavy penalty given his family responsibilities.

The defendant has no convictions for sexual offending either before or after this crime and none for violence. He has prior convictions for drive whilst disqualified and drive a motor vehicle while exceeding prescribed alcohol limit. He received a short period of suspended imprisonment in 2023 for such offences but he has not been sentenced to a term of actual imprisonment. Relevantly, he has committed no offences at all since his crime in 2021.

I allow for the fact that the court proceedings themselves, as well as facing the prospect of imprisonment for an extended period, have been for this defendant a salutary experience. He continues to deny his guilt, but I should allow for the fact that he has developed some insight

that he did not have before about the gravity of such crimes and the profoundly destructive impact they have on the lives of victims.

Given his age as a young adult at the time of his offending, he has prospects of reform. He has the chance to reflect on his crime and make the decision that he will not ever offend in this way again. It is hoped that he will take up any opportunities in prison to address any factors that may improve his prospects such as addressing his alcohol consumption or programs that may develop his insight and understanding. I note that he has already taken up an opportunity for employment. In determining the sentence, greater emphasis will be given to his rehabilitation than would be the case with a more mature offender.

The crime of rape is inherently serious, the anal rape of a 10 year old child particularly so. The crime here is aggravated by the complainant's young age, and the grave breach of trust involved.

The sentence must reflect the gravity of the crime he committed and the terrible harm he has caused to the complainant and her family. It must seek to deter others from committing crimes of sexual abuse of children. The need for general deterrence is the primary sentencing goal reflecting the Court's duty to protect children from such crimes.

A lengthy term of imprisonment is inevitable.

The sentence will also however give weight to the defendant's rehabilitation noting his age and prospects of reform that I have mentioned. The sentence will be moderated to promote these prospects of reform. I am aware, that still, the sentence will be felt by the defendant as a heavy sentence. I have explained why a heavy sentence is required.

CBF, I record a conviction for the crime of rape. I impose 4 years and 4 months' imprisonment, backdated to 27 May 2026, being the date I remanded you in custody. I suspend 12 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. Further conditions are that you are subject to the supervision of a probation officer and you must report within two working days following your release from custody to a probation officer at Community Corrections, 75 Liverpool Street, Hobart.

Further conditions are:

- 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 a 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 two working days after, the change;
- you must submit to the supervision of a probation officer as required by the probation officer.

In relation to the balance of the sentence, which is 3 years and 4 months' imprisonment, backdated to 27 May 2026, I allow the minimum non-parole period. You are not to be eligible to apply for parole until you have served half of that term.

I make an order pursuant to the *Community Protection (Offender Reporting) Act*. 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 three years following your release from custody.