

**ORDER PROHIBITING PUBLICATION OF NAME OR IDENTIFYING  
PARTICULARS OF COMPLAINANT**

**IN THE HIGH COURT OF NEW ZEALAND  
NELSON REGISTRY**

**CRI 2008 042 000491**

BETWEEN                      THE QUEEN

AND                              TIMOTHY JAMES FEATHERSTONE

Counsel:        H J Boyd-Wilson for the Crown  
                    H W Riddoch for the Prisoner

Date:                18 February 2009

---

**SENTENCE OF WILD J**

---

**Introduction and charges**

[1]        Mr Featherstone, you are for sentence this morning having pleaded guilty to sexual and physical violence offences committed on two separate occasions a month apart in December 2007 and January 2008. Those charges are:

<b>Date of offence</b>	<b>Offence</b>	<b>Section</b>	<b>Maximum penalty</b>
30.12.07	Sexual violation by rape	s128(1)(a) and s128B Crimes Act 1961	20 years imprisonment
30.12.07	Kidnapping – unlawful detention with intent to confine or imprison	s209(b) Crimes Act 1961	14 years imprisonment
31.1.08	Aggravated burglary	s232(1)(a) Crimes Act 1961	14 years imprisonment
31.1.08	Male assaults female	2194(b) Crimes Act 1961	2 years imprisonment
31.1.08	Contravention of protection order by physical abuse	ss19(1)(a) and s49 Crimes Act 1961	6 months imprisonment or a \$5000 fine

[2] So you can see from those sentencing maxima that these are serious crimes indeed.

[3] You pleaded guilty to those charges on 31 October last year, some three months before your trial was scheduled to start on 9 February this year.

## **The facts**

### *The 30 December 2007 incident*

[4] At the end of November 2007 you and your partner Ms A (members of the press, I am suppressing the name of the victim of these crime, Ms A, who I understand is in Court this morning) agreed to end a relationship you had been in for some eight years. The agreed arrangement was that you would move into a spare bedroom in your home on the basis that you would live there until you could sort out your affairs.

[5] On the evening of Sunday 30 December 2007 you arrived home with a pizza and a bottle of wine which you invited Ms A to share with you. She agreed reluctantly but you then drank another bottle of wine and also some vodka. As you became increasingly drunk, you became increasingly argumentative and then physically violent. You put your hands tightly around Ms A's throat, she bit your arm to get release from that hold. You prevented her leaving, and when she tried to call the Police you unplugged the telephones and took her cellphone. You also removed a deadbolt she had fitted to her bedroom door.

[6] After further scuffles you taped Ms A's legs together but she was able to get free. You then sat on her and tied her hands together using cellotape and a crepe bandage. You then pulled down her jeans and removed her underwear.

[7] An argument ensued, you saying that you did not think you had had any closure to the relationship and you repeatedly insisted that Ms A perform a sexual act

which she reluctantly agreed to do if you untied her hands. She had been tied up for about an hour at that stage.

[8] Next, you followed Ms A into her bedroom and insisted that you have sexual intercourse. She was not able to resist you any more at that stage, and sexual intercourse occurred, finishing at around 7 am on Monday 31 December 2007.

[9] You then cleared up the house, disposing of the tape and the crepe bandage and left.

[10] Ms A complained to the Police. When they spoke to you, you acknowledged that there had been problems but refused to say anything more.

[11] On 18 January 2008 the Nelson District Court made a temporary protection order against you upon Ms A's application, and that order was served on you the following day.

[12] Those are the facts which led to the first two charges you face, those of rape and kidnapping.

#### *The 31 January 2008 incident*

[13] At about 11 pm on Thursday 31 January 2008, Ms A was at her home. She had let her dog out before she went to bed. About 10 minutes later she heard a noise outside and thought it was the dog coming back. When she unlocked the door you rushed at her from your hiding place outside and grabbed her face and neck pushing her back into the hallway. She said you were wearing a dark hat and clothing and she had no idea who had attacked her until you began to speak. She was terrified and screamed but you covered her mouth with a gloved hand and told her to be quiet and that you were not going to hurt her.

[14] She continued to scream and you grabbed her by the back of the neck and forced her face into the hallway floor. You continued to force her face into the floor until she stopped screaming. You had her wedged against the wall so she could not

move. Ms A thought it safest to comply with your demands and she tried to calm you down. She managed to get up and convince you that everything was alright. You kept asking her whether there was anyone else in the house or whether anyone else was likely to come around.

[15] In the meantime, Ms A's dog had turned up at the home of her sister. She telephoned Ms A who managed to convey to her sister that she needed assistance.

[16] The Police were called to the home and you were found in a bedroom and arrested. When you were arrested you were wearing a backpack containing condoms, knives and crepe bandages.

[17] Your explanation was that you had gone to Ms A's home to discuss a financial crisis and intended her no harm.

### **Preventive detention**

[18] Convictions entered against you in 1998 for alarmingly similar offending against your second wife make you eligible for a sentence of preventive detention.

[19] For the reasons Mr Boyd-Wilson explained in the Crown's written submissions to me, that Mr Boyd-Wilson has not elaborated on in Court this morning, the Crown does not seek a sentence of preventive detention and I do not intend to impose one. My reasons for not doing so are these:

- a) All your relevant offending has been against long-term partners upon the breakup of the relationship. It has not been against women who are strangers to you. In other words, your offending has been narrowly directed and confined.
- b) The major factor contributing to your offending has been your chronic alcoholism. A significant though lesser additional contributing factor is your paraphilia – in your case your interest in urophilia, which becomes an obsession when you are drunk.

- c) You have been assessed as at medium risk of reoffending sexually or violently against women in the future. But the reporting psychologist, Mr Prince, says this:

Obviously it is difficult to predict offending far into the future given the large number of potential variables at play. Given his pattern, he would have to enter a relationship, remain in it for a lengthy period of time, continue to have substance abuse and emotional regulation difficulties, and be exposed to significant stressors.

- d) Mr Prince also reports to me that the risk of your reoffending against women in the future can be lowered if you successfully complete a substance abuse programme. He makes the point that you would have to demonstrate ongoing abstinence which could be made a condition of parole if it is granted to you. Mr Prince makes the additional point that the Psychological Service could assist you with your paraphilia if you agreed to undergo individual or group therapy.
- e) You have, in the past, attempted to seek treatment for your alcoholism and sexual deviance and, Mr Featherstone, you claim finally to have resolved never to drink again.
- f) I agree with Mr Prince that all of those factors “favour a finite sentence”.
- g) In addition, I cannot overlook several positive aspects about you as a person. They are:
- Of your three long term relationships, two only were marred by sexual and violent offending, but only in their dying stages.
  - The genuine warmth with which your 19 year old son of your first marriage (a marriage that lasted from 1983 to 1991) speaks of you as a father.

- The fact that you have successfully run a variety of businesses both in England, and then in this country after you emigrated here when you were about 30. You are obviously a man of enterprise and ability – although both have been marred – and probably increasingly so Mr Featherstone - through the years by your alcohol addiction.

[20] So the sentences I will be imposing on you this morning will be fixed terms of imprisonment.

[21] I deal first with the two crimes you committed on 30 December 2007.

[22] I take as my starting point in sentencing you for those two crimes a term of 9 years imprisonment on the most serious of the two crimes, the rape. That is 8 years for the rape, increased by one year for the kidnapping and the unlawful detention, with the comparatively low level of violence that accompanied it. So, a starting point of 9 years imprisonment.

[23] I then factor in the crimes you committed a month later, on 30 January 2008. Were I sentencing you for those crimes alone, a starting point of around 4 years imprisonment would have been justified. I base that on the Court of Appeal's sentencing decision *R v Mako* [2000] 2 NZLR 170, applied by analogy to the aggravated burglary you committed, as the Court of Appeal said (in *R v Watson* CA224/03 24 October 2003) that it could be. And I am guided also by the Court of Appeal's sentencing decisions in the comparable cases of *R v Gore* CA414/05 2 March 2006, *R v Drewett* [2007] NZCA 48 and *R v Patrick* [2008] NZCA 115.

[24] But, given that I have to view your offending in its totality, I increase my starting point of 9 years imprisonment by only 2 years, to a total starting point of 11 years imprisonment.

[25] I turn now to consider you as the offender, and whether there is anything about you suggesting that I should increase or decrease that 11 year sentencing start point. You were born in England in July 1952, so you are 57 years of age this year.

The reports I have record that you were sexually abused by the senior prefect for whom you were fagging at the boarding school you attended in the south of England.

[26] One of the reports I have also suggests that you grew up somewhat devoid of close, caring and emotionally rewarding relationships. You were the only boy in your family, and are reported as having felt quite separate from your three older sisters. You told the reporting psychiatrist that your mother, who you described as an overpowering person, doted on you as her only son, but said you disliked your father who you described as a tyrant who occasionally physically disciplined you.

[27] In your mid-20s a New Zealand girl became your girlfriend and the two of you were married when you were about 30, and then decided to move to live in New Zealand. From this marriage you have a 21 year old daughter and the 19 year old son to whom I have already referred. This marriage lasted some eight years, ending when you separated in 1991.

[28] Not long after the end of your first marriage you entered into a new relationship and then, about five years later in April 1996, married again, that is, you married the woman you had been in a relationship with for some years by that stage. This second marriage ended when you separated in August 1997. In 1998 you were sentenced to 2 years imprisonment for a number of offences against your second wife. It is those offences which bear what I earlier said was an alarming resemblance to those for which I am sentencing you this morning. They also were committed against, in that case, your wife, but also in the dying stages of a relationship which had lasted for a number of years.

[29] Whilst I am not sentencing you this morning for that 1998 offending, I must reflect that the offending for which I am sentencing you is a virtual repetition of that offending. I reflect that by increasing my sentencing starting point by one year to a total of 12 years imprisonment.

[30] There are three factors mitigating against my imposing a sentence of 12 years imprisonment.

[31] The first is that you pleaded guilty to these crimes. I have already made the point that you did that three months before your trial was scheduled to begin. As your counsel Mr Riddoch has said, you did that when you were first arraigned in this Court. Although that spared Ms A the ordeal of having to give evidence at your trial, it came too late to spare her the earlier ordeal of having to prepare a statement of evidence for the preliminary hearing, and of facing cross-examination at that preliminary hearing. I intend giving you an allowance of around 20% to reflect the fact that your guilty pleas, and in particular that they spared Ms A the ordeal of having to give evidence at your trial. But I obviously cannot give you the significantly higher discount that you would have been entitled to had you pleaded guilty at or around the time you were first charged.

[32] The second aspect is that I accept that you are remorseful – sad and sorry – for what you did to Ms A. And so you should be. Instead of continuing in a relationship which you described as “wonderful” with a woman about whom your comments have been generally very positive, you are about to become a prison inmate for the next few years.

[33] Third, is your expressed resolve to give up drinking entirely. How real and successful that resolve is has of course yet to be demonstrated. But it is admirable, and it is long overdue Mr Featherstone, since it is your drunkenness that has once again been your downfall in respect of these present crimes.

[34] For those three mitigating factors I allow you a 25% discount, reducing the lead sentence I am about to impose from 12 to 9 years imprisonment. As I said, most of that discount – 20% - is to reflect your guilty pleas.

[35] I sentence you as follows, and these sentences are concurrent, in other words they will run along together:

- On the charge of sexual violation by rape – to a sentence of 9 years imprisonment.
- On the charge of kidnapping – to a sentence of 3 years imprisonment.



- On the charge of aggravated burglary – to a sentence of 4 years imprisonment.
- On the charge of assaulting a female – to a sentence of one year's imprisonment.
- On the charge of contravening a protection order – to a sentence of 3 months imprisonment.

[36] I repeat, your effective total sentence is one of 9 years imprisonment.

### **Minimum term of imprisonment**

[37] I do not accept the Crown's submission that, having sentenced you to fixed terms of imprisonment, that I should also impose a minimum term of imprisonment, pursuant to s 86 Sentencing Act 2002. My reasons for not imposing a minimum term are largely the same reasons that make preventive detention an inappropriate sentence for you.

[38] You will become eligible for parole after 3 years in prison. I am satisfied, notwithstanding the doubts expressed in the newspapers this morning about the parole system, that the Parole Board will not grant you parole unless and until it is satisfied that your resolve never to drink alcohol again remains, and will anyway only grant you parole on condition that you abstain from drinking. The Parole Board may well impose additional conditions requiring you to undertake counselling for treatment for your alcoholism and your paraphilia, but of course those will be matters for the Parole Board if and when it grants you parole.

### **Final comment**

[39] Mr Featherstone, often the seeds – the germs - of crime can be found in a criminal's background or upbringing. So it may be with you. But, at the age of 56, it is now well overdue for you determinedly to come to grips with the problems that

have landed you again in prison, namely your alcoholism and your sexual deviance. So make sure you do that and do not again let yourself down. You are not a worthless person. Indeed quite the contrary. I have pointed out and need not reiterate the positive things about you.

[40] You can stand down.

Solicitors:  
Crown Solicitor, Tasman for the Crown

Solicitors: