

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

CRI 2008-041-2030

THE QUEEN

v

OWEN STANLEY DRAPER

Hearing: 31 March 2009
Counsel: N M Graham for Crown
L P F Lafferty for Accused
Sentence: 31 March 2009

SENTENCING OF RONALD YOUNG J

Introduction

[1] You are for sentence by me today, having pleaded guilty to some thirty eight counts of various sexual offending involving eleven young men between 2001 and 2008.

[2] The offending involved:

- a) six counts of indecent assault;
- b) one of doing an indecent act on a boy under twelve years;

- c) two of inducing an indecent act by a boy under twelve years;
- d) one of sexual violation by unlawful sexual connection;
- e) four of sexual violation with a child under twelve years;
- f) five of sexual connection with a boy under sixteen years;
- g) two of doing an indecent act on a boy under twelve;
- h) five of doing an indecent act on a boy under sixteen years; and
- i) twelve charges of meeting young persons under sixteen years following sexual grooming.

[3] Some of the most serious offending involved two young brothers whom I will call AG and BG.

[4] You came to know these two boys when they did odd jobs for you around your flat and boat. The offending began when the older boy was about ten years of age. Initially it involved you masturbating and convincing the boy to also masturbate at the same time. You gave the young boy money and goods to do so.

[5] Eventually you began undressing the young boy, touching his penis and testicles. Later the offending moved to oral sex with the victim masturbating you.

[6] You continued to give the victim money and then offered a bike. You showed the victim pornographic movies and photographed him naked.

[7] By this time the victim was twelve years of age. The sexual offending further advanced when you had anal intercourse with the victim and convinced the victim to insert his penis in your anus.

[8] Eventually at thirteen years of age this young man refused to be further involved.

[9] The victim's brother was also a victim. BG also became friendly with you through his performing household duties and assisting painting your boat.

[10] Again, you offered him money for sexual services. This began as masturbation and mutual oral sex. It continued for some time with you paying the young victim for sexual favours. Eventually this turned into anal intercourse on a weekly basis for some time. While this stopped when the victim became eighteen years of age the other sexual offending with him continued until eventually he told his parents.

[11] During these seven years between 2001 and 2008 you approached nine boys all about ten to thirteen years of age and offered them money for sexual favours. You got to know these boys when you paid them to do odd jobs for you. You then persistently tried to convince them to have a sexual relationship with you promising money and sometimes goods. You often showed them pornographic movies. You touched them on the legs and sometimes their buttocks. You reassured them that any sexual contact would be normal.

[12] Finally, with respect to another victim CR, once again you used an ordinary relationship where the ten year victim did some odd jobs for money as a way of grooming this young boy for sexual encounters. You would touch this young boy's penis and have mutual oral sex.

[13] With each of the victims you stressed they should tell no-one and reinforced this by the payment of money and goods.

[14] This was extremely serious sexual offending involving young boys from ten up to fourteen years of age at a particularly vulnerable time in their lives. With two of them you had anal intercourse the grossest intrusion on their bodies and at an age well below any capacity to consent. This was made much worse by the breadth of your search for young men that you could have a sexual relationship with.

[15] Although you were not often successful, sometimes you were but the lack of success was not through lack of trying. There were persistent attempts over years

using any means at your disposal to have these young men dragged into your world. You had access to all of these young men in circumstances of trust by their parents. Your actions were a gross abuse of that trust.

[16] You have previously offended against young boys having been convicted in 1986, 1988 and 1996 of sexual offending. You also have convictions for dishonest offending.

[17] I have read the probation office report, which says that you are genuinely remorseful and open to change but I will mention more of that in a moment.

Victim impact

[18] I want first to acknowledge the victims and their families and acknowledge that I have read the many, I think twenty six, victim impact reports. They make difficult reading. The graphically illustrate the long term harm that you have done to these young men and their families. They describe the severe emotional affect that you have had on many of these boys and the way in which there own emotional development is affected.

[19] As one said “It is something I will never forget and the scars will live with me for the rest of my life”. These young men live every day with the emotional scars inflicted on them by you and their families understandably struggle to understand what has happened and to cope with their sometimes difficult behaviour.

Crown submissions

[20] The Crown submissions are that the aggravating features of:

- a) the number and age of the victims;
- b) the breach of trust;
- c) the grooming involved;

- d) your premeditation and planning; and
- e) the victim impact

all point to a sentence of preventive detention. They stress the psychological and psychiatric reports of high probability of future offending and your failure to take the chances previously offered through counselling.

Defence Submissions

[21] I have read and take into account your counsel's submissions, both written and oral. They stress that a lengthy finite sentence is appropriate and a sentence of preventive detention is not required to protect the public. Your guilty plea is stressed illustrating, counsel says, your remorse and motivation to address your offending.

[22] Your counsel accepts a starting sentence of ten to twelve years before a guilty plea deduction together with a minimum period of imprisonment and perhaps ultimately an extended supervision sentence is sufficient to protect the public.

Conclusion

[23] Firstly, its clear you have committed offences for which preventive detention can be imposed and a second pre-requisite that you are over eighteen years of age is self evidently the case.

[24] I have had the chance of reading the specialist reports relating to an assessment of your likelihood of future offending if released after a finite sentence. Obviously predicting future conduct is always fraught. If a finite sentence was imposed I assess it at approximately nine years' imprisonment. That is based on a starting sentence of thirteen years' imprisonment taking account of the aggravating features including a modest uplift for your previous convictions and a reduction of four years for your early guilty plea reaching nine years.

[25] The information from the reports is that your risk of further offending in my assessment even after nine years' imprisonment must be viewed as high.

[26] That is understandably so given your past offending, the careful grooming of these young men and the increasingly serious sexual offending over the years against young boys. And, of course, you have had previous opportunities to address your sexual conduct, which have not obviously been successful.

[27] Other relevant factors, in my view, favour a sentence of preventive detention.

[28] As I have observed there is a pattern of increasingly serious offending now over twenty years against young boys with this offending involving much more serious sexual assaults with many more young men and very careful grooming.

[29] The victim impact reports, as I have said, identify the terrible affect you have had on the young men and their future. That is, of course, a serious community harm. I have already assessed the future chance of you committing serious sexual offences in the future as high.

[30] You now claim you are motivated to address the cause of your offending. I find your real commitment hard to judge but frankly I am sceptical. You did nothing before you were arrested. You did not voluntarily stop offending, you were stopped by others. Your offending involved careful planning. I am not convinced that you are committed to treatment and given the previous opportunities you had for treatment and the failure by you to take them up fully indicates to me or shows you why I am sceptical.

[31] Finally, I have to consider whether a lengthy determinate sentence, together with the possibility of an extended supervision order is preferable if this sufficiently protect society.

[32] I assume for this purpose that you will serve the full nine years of what I consider an appropriate finite sentence. This is a lengthy period especially with the possibility of a supervision order. On the other hand you have been now offending

against young men for over twenty years and your offending has got worse and the lives of more young men have been ruined by you.

[33] Your offending has become bolder and the type of offending far more intrusive. Your planning and execution, your grooming here were sophisticated and therefore that much more dangerous.

[34] You have been previously given chances by the Court to address your offending without success.

[35] I must also take into account your age, now sixty six years but against that, of course, is the fact that much of this offending has occurred while you have been in your sixties.

[36] I am satisfied that a finite sentence given these factors and given the high risk that you will re-offend would not be sufficient protection for the public. I am satisfied that a sentence of preventive detention is the proper sentence for you in the circumstances.

[37] I also think that a minimum period and I stress minimum, beyond the five years minimum provided, is also appropriate. Taking account of my view of a finite sentence of nine years' imprisonment imposed and taking account of the danger that you pose to young men, a minimum period of imprisonment of six years is appropriate.

[38] On each of the charges you are sentenced, therefore, to preventive detention with a minimum period of six years' imprisonment.

Ronald Young J

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