

**NOTE: PUBLICATION OF NAME OR IDENTIFYING PARTICULARS OF  
COMPLAINANT PROHIBITED BY S 139 CRIMINAL JUSTICE ACT 1985**

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

**CRI-2008-076-002301**

**REGINA**

v

**RICHARD JOHN SEDDON**

Appearances: C Boshier for Crown  
Q Hix for Prisoner

Judgment: 15 October 2009

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**SENTENCE OF HON. JUSTICE FRENCH**

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[1] Richard John Seddon, you appear for sentence this morning having pleaded guilty to one representative count of rape.

[2] Although there is only the one charge, it refers to repeated rapes that occurred over a period of approximately nine years, from between 1964 to 1973.

[3] The victim was your eldest daughter. The sexual abuse began when she was only six or seven years of age. You made her lie down on a mattress on the kitchen floor and forced her to hold your penis, telling her that this is what fathers do to daughters. During that same year, it progressed to full sexual intercourse with her behind the couch in the house. You made her go to the chemist to procure condoms.

[4] When your daughter was nine to ten, you were working as a truck driver, and would take her with you to work at weekends. During those trips, you would make her hold your penis while you were driving, and then take her into the bushes or scrub on the roadside and have intercourse with her. You would tell her it was your secret, that you loved her and that she was not to tell anyone or you would get into a lot of trouble.

[5] At one point, when your wife was hospitalised, you had sexual intercourse on a regular basis with your daughter in the lounge of the family home. Then, while you were operating a cleaning business, you would take your daughter at least once a week at night into the buildings where you were doing the cleaning and have intercourse with her there.

[6] The offending ended when she was 15 and left home.

[7] Your daughter has suffered from the emotional effects of this abuse all her adult life. It appears she has tried to suppress the symptoms, but following a chain of events which resulted in her going to the police in 2007 the symptoms have been exacerbated to the point where she has had to give up work.

[8] When first interviewed, you admitted to only having sexual intercourse once when your daughter was 15. That was not true. You now accept the summary of facts as I have outlined them.

[9] I have read the victim impact statement, and I have also read two medical reports about your daughter. The harm you have caused is profound and ongoing. As the Crown has submitted, the effects of abuse on a child cannot be overstated. It has deeply affected your daughter's emotional wellbeing and her health. She suffers from post-traumatic stress disorder and depression as a direct result. It has been devastating for her.

[10] As well as the victim impact statement, I have read the pre-sentence report and a psychiatric report about you from Dr Earthrowl.

[11] You are 79 years of age. You have no previous convictions other than an assault in 1975. You live alone, your wife having left you 18 months ago. You have eight children from your marriage, several of whom it seems remain supportive of you.

[12] Your own childhood was marred by significantly poor relationships with your parents. This seems to have resulted in you having difficulty socialising with other people, causing you to become quite an isolated individual throughout your life. Your marriage was a loveless one.

[13] Despite your age, your physical health is reasonably good.

[14] You do, however, have a significant psychiatric history which dates back to 1980, approximately seven years after the offending had stopped. There were two admissions to hospital in the 1980s and subsequent reviews, the case record ending in 1985. At the time of those assessments, the preferred diagnosis was schizophrenia. With the benefit of hindsight, however, Dr Earthrowl believes a more accurate diagnosis was depressive disorder with psychotic features. Dr Earthrowl considers that currently you exhibit a depressive disorder superimposed on longstanding chronic dysthymia.

[15] As regards the state of your mental health at the time of the offending, Dr Earthrowl says there is no evidence to support the existence of psychotic symptoms then. Rather, in his opinion, your offending occurred in the setting of your low self-esteem, low mood and a chronic sense of inadequacy and overwhelming stress, and that you were opportunistic within a family setting.

[16] Both the probation officer and Dr Earthrowl consider you are genuinely remorseful and at low risk of reoffending.

[17] I turn now to explain the sentencing decisions that I must make today.

[18] First and foremost, I am required by law to apply the principles and purposes of sentencing that are contained in the Sentencing Act 2002. Of particular relevance

as regards the purpose of sentencing is the following: the need to hold you accountable for your offending; the need to promote in you a sense of responsibility; the need to denounce your conduct – by that I mean the need to record the community’s absolute abhorrence and condemnation of child abuse.

[19] Another important purpose of sentencing is to provide for the interests of the victim and to deter others from committing the same or similar offences.

[20] In terms of the principles of sentencing, the principles of particular relevance are the seriousness of this offending, sentencing consistency and consideration of the effect of the offending on the victim. I am also required by law to be mindful of my obligation to impose the least restrictive outcome appropriate in the circumstances.

[21] Those then are the principles and purposes of sentencing.

[22] I need also to explain to you that in coming to a decision I am required to follow what can be loosely called a two-stage approach.

[23] In the first stage I have to fix what is known as the starting point. What that means is the sentence which reflects the culpability or blameworthiness associated with your offending. That is the first stage.

[24] The second stage is that, having fixed the starting point, I am then required to consider whether your personal circumstances warrant any adjustment upwards or downwards of the starting point.

[25] I turn then to the first stage.

[26] In this case, I must fix a starting point sentence that is based on sentencing levels as they were at the time these offences occurred – not as they are today.

[27] Counsel are agreed that in accordance with the Court of Appeal decision of *R v Clark* [1987] 1 NZLR 380 I should take a notional starting point of five years’ imprisonment, which should then be adjusted upwards for aggravating features.

[28] I identify the aggravating features that occurred in this case as follows:

- i) The fact that the offending occurred in the home, a place where your daughter was entitled to feel safe.
- ii) The gross breach of trust. You were her father. You were supposed to protect her, not abuse her.
- iii) The age of your daughter. She was only a child when this began. You robbed her of her innocence.
- iv) The level of pre-meditation. You created opportunities to be alone with her so that you could abuse her.
- v) The length of time of this offending.
- vi) The repeated nature of the rapes.
- vii) The irreparable harm that has been caused to your daughter.

[29] In my view these aggravating features warrant an adjustment of another three years, making the starting point eight years' imprisonment.

[30] I am mindful of the point made to me by Mr Hix that some of the comparator cases involved multiple victims, but on the other hand that is balanced against the facts of this case – namely the repeated nature of the rapes over such a long period of time.

[31] That is the first stage, fixing the starting point.

[32] I now turn to the second stage, that is consideration of personal factors relating to you personally as distinct from the offending.

[33] There are no aggravating features relating to you personally. There are, however, a number of significant mitigating factors:

(i) your age;

(ii) your health, in particular your mental health;

(iii) the fact that apart from that minor assault in 1975 there has been no other previous offending.

[34] I have decided in the circumstances of this case to allow a discount of two and a half years on account of these personal factors.

[35] That leaves me with the final mitigating factor, which is the guilty plea. The guilty plea was entered only one month before trial, and in light of *R v Hessel* [2009] NZCA 450 I consider that an appropriate discount is 15 per cent. The Crown indicated in its pre-trial memorandum to the Court that it would be prepared to revert to one representative charge upon entry of a guilty plea. However, you first chose to challenge the admissibility of some of the Crown evidence and apply for a stay. In those circumstances, I am not prepared to accede to Mr Hix's request that the discount should be higher.

[36] That then results in an end sentence of four years, eight months' imprisonment.

[37] Richard John Seddon, you are convicted of the count of rape, and I sentence you to a term of imprisonment of four years and eight months. There will be no order regarding suppression of your name. The only order relating to suppression is that suppressing the name of your daughter.

*Solicitors:*  
*Crown Solicitor, Timaru*  
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