

SEXUAL OFFENCES LIST

Case Nos. CR-19-02275; CR-19-02276
CR-19-02279; CR-19-02280
Indictment No: C1812117

DIRECTOR OF PUBLIC PROSECUTIONS

v

WAYNE KENNETH ROBINSON

JUDGE: HIS HONOUR JUDGE HIGHAM
WHERE HELD: Melbourne
DATE OF PLEA HEARING: 29 January 2020
DATE OF SENTENCE: 12 February 2020
CASE MAY BE CITED AS: DPP v Robinson
MEDIUM NEUTRAL CITATION: [2020] VCC

REASONS FOR SENTENCE

Subject: CRIMINAL LAW
Catchwords: Sentence – indecent act with a child under the age of 16 – sexual assault of a child under the age of 16 – indecent act with a 16 or 17 year old child – sexual penetration of a child under 16 – using a carriage service to transmit indecent communication to a person under 16 years of age – possession of child abuse material – plea of guilty
Legislation Cited: *Crimes Act 1958* (Vic), ss 45(1), 47(1), 49(1), 49D(1); *Criminal Code* (Cth)
Sentence: Total effective state sentence of 11 years and 6 months' imprisonment with a non-parole period of 7 years and 8 months
Total effective federal sentence of 6 months' imprisonment
Section 6AAA declaration: 15 years' imprisonment with a non-parole period of 12 years

<u>APPEARANCES:</u>	<u>Counsel</u>	<u>Solicitors</u>
For the Director of Public Prosecutions	Mr D Cordy	Solicitor for the Office of Public Prosecutions
For the Accused	Ms N Karapanagiotidis (Plea) Ms L Conwell (Sentence)	Sary Norton Halphen

HIS HONOUR:

- 1 Wayne Kenneth Robinson, on Indictment C1812117, you have pleaded guilty to:
 - 5 charges of indecent act with a child under the age of 16 (Charges 1, 3, 4, 8 and 9). The maximum penalty for indecent act with a child under 16 is 10 years' imprisonment.
 - 5 charges of sexual assault of a child under the age of 16 (Charges 13 – 17). The maximum penalty for sexual assault of a child under the age of 16 is 10 years' imprisonment.
 - 4 charges of indecent act with a 16 or 17 year old child (Charges 2 and 10-12). The maximum penalty for indecent act with a 16 or 17 year old child is 5 years' imprisonment.
 - 3 charges of sexual penetration of a child under 16 (Charges 5-7). The maximum penalty for sexual penetration of a child under 16 is 15 years' imprisonment.
 - 1 charge of using a carriage service to transmit indecent communication to a person under 16 years of age (Charge 18). The maximum penalty for using a carriage service to transmit indecent communication to a person under 16 years of age is 7 years' imprisonment.
 - 1 charge of possession of child abuse material (Charge 19). The maximum penalty for possession of child abuse material is 10 years' imprisonment.

- 2 Tendered on the plea as exhibit 1 was a Summary of Prosecution Opening. I annex a copy of that document to these sentencing reasons. In brief the circumstances of your offending were as follows.

- 3 You were the founder and principal of the Northern Rivers Academy of Music, a music tuition business located in Wangaratta. All of your victims were pupils at the Academy. Your offending occurred, variously, at the premises of the Academy, at your properties in Boorhaman North and Pelican Point, at the home of one of your victims and when your victims were passengers in vehicles driven by you. Your offending occurred between 1 January 2005 and 2 February 2018, a 13 year period when you were aged between 32 and 46.
- 4 In late November 2017, one of your students, Joel Buckland¹, whilst looking for a backing track file, found a search term on your laptop which demonstrated your interest in child pornography.
- 5 Using a different name, 'Petrie', Joel established online contact with you. Your response to this contact was to ask him whether he wanted a 'dad figure' and help with musical lessons. When Joel told you he was only 15 you messaged "IDC" (I don't care). You told Joel to use Wickr, so as to avoid detection of your communications. In the course of your online chats you sent sexually explicit photos including a photo of your genitalia, and asked whether your correspondent, 'Petrie', would like to "meet over the weekend". These facts underpin Charge 18, using a carriage service to transmit indecent communication to a person under 16.
- 6 Joel promptly reported matters to police, and a warrant was executed at your home in March 2018 where various computers and hard-drives were seized. On a Macbook Laptop were found 60 images of child exploitation material located, categorised in paragraph 108 of the summary of prosecution opening exhibit 1. The material included two images of adult/child penetration. This is Charge 19: possession of child abuse material.
- 7 An investigation was launched and over the course of 2018 former pupils of the Academy came forward and disclosed your offending against them.

¹ Joel Buckland is a pseudonym.

- 8 Nicholas West², was 15 and 16 years of age at the time of your offending against him which occurred between January 2005 and January 2008. During voice lessons at the Academy you taught Nicholas 'breathing exercises'. You told Nicholas to lie on the floor and used books on his chest/sternum, stomach and pelvis. You then started using your hands instead of books.
- 9 You began to massage Nicholas telling him that he was 'tense' and that it would 'help'. You massaged Nicholas on some occasions when he had his shirt on, and on other occasions with his shirt off. On numerous occasions you massaged Nicholas' back or pectoral muscles, and down close to his groin area. This caused Nicholas to feel uncomfortable. This is Charge 1: indecent act with child under 16; and Charge 2: indecent act with a 16 or 17 year old child under care, supervision or authority. Both are course of conduct charges.
- 10 Aaron Vianelli³, was between 14 and 16 years of age at the time of your offending against him, which occurred over an 18-month period.
- 11 You recommended massages to Aaron as beneficial for his breathing, later suggesting it would be better if he removed his clothes. He complied. You would then use baby oil to massage over his body with him only wearing his underwear. This is Charge 4: indecent act with a child under the age of 16 (representative charge).
- 12 In January 2008, during a recording session you massaged Aaron in his underwear on a sleeping bag using baby oil. In April 2008, and again in November 2008, you performed 'breathing exercises' before moving to massage. These are represented instances of the offending in Charge 4.
- 13 Between October 2007 and November 2007, you massaged the inside of Aaron's legs, then started touching and then masturbated his penis. This is Charge 3: indecent act with a child under the age of 16 (representative

² Nicholas West is a pseudonym.

³ Aaron Vianelli is a pseudonym.

- charge). During the school holidays of December 2007, Aaron was recording some music with you. On your suggestion, he took off his clothes to do some breathing exercises. While massaging his body you grabbed his penis and masturbated him until he ejaculated. On another occasion, while he was lying on his front, you massaged his legs, brushing your thumbs against his anus. Aaron then rolled over and you masturbated his penis until he ejaculated. These are represented instances of the offending in Charge 3.
- 14 On a further occasion, in April 2008, you masturbated, then licked, Aaron's penis. This is a further represented instance of the offending in Charge 3. You then put Aaron's penis into your mouth and performed oral sex upon him. This is Charge 6, sexual penetration of a child under 16 which is a representative charge. You also inserted your fingers into Aaron's anus. This is Charge 5, sexual penetration of a child under the age of 16.
- 15 In September 2008, you went to Aaron's house when his parents were away. You put a condom on Aaron's penis and performed oral sex on him. You then took the condom off Aaron's penis and again performed oral sex on him until he ejaculated. These are represented instances of the offending in Charge 6: sexual penetration of a child under the age of 16. You also placed a condom on your penis and inserted it into Aaron's mouth. This is Charge 7: sexual penetration of a child under the age of 16.
- 16 Kyle Matthews⁴ commenced piano lessons with you when he was 8 years of age. When Kyle was aged 10 or 11 years of age, you offered him a two-year scholarship in composition and song-writing, which he accepted.
- 17 You began by touching his knee during evening lessons, moving your hand further up his leg over an 18-month period of time. On one Thursday evening, you touched Kyle on his knee, and moved your hand up his leg, touching his inner thigh in the vicinity of his genital region. This is Charge 8: indecent act

⁴ Kyle Matthews is a pseudonym.

- with a child under 16.
- 18 Billy Matthews⁵, who is the brother of Kyle, also attended the Northern Rivers Academy of Music to receive piano lessons from you, and received a music scholarship for band session involvement for a period of two-years. During lessons you would place your hand on his thigh and inner thigh, towards his crotch. Billy remembers one particular occasion and this is Charge 9: indecent act with a child under 16.
- 19 Max Johnson⁶ left high school when he was 15 years of age to undertake a Certificate in Music in guitar and drums at the Academy. Mr Johnson threw himself into his music, and viewed you as his mentor.
- 20 You started giving him a lift at night to his home in Beechworth. In 2012, while you were driving Max home, you placed your hand on his upper inner thigh and rubbed the area in the vicinity of his groin. On one occasion, you massaged his thigh for the entire length of the drive from Wangaratta to his home in Beechworth. This is Charge 10: indecent act with a child aged 16 or 17 under care, supervision or authority (representative charge).
- 21 One evening at the Academy, you sat down next to Max when he was seated at the piano. You patted his leg, then started running your hand along his upper inner thigh in the vicinity of his groin. This is a represented instance of the offending in Charge 10.
- 22 Max started assisting you as your 'roadie,' and accompanied you to the Wangaratta Jazz Festival in 2012. Immediately prior to this, you had promised him a \$14,000 scholarship to the Academy. After the festival you took Max to your family home to have dinner with your wife and two daughters. He stayed the night in a spare room. Later that evening, after Max had fallen asleep, he awoke to find himself lying on his stomach with his suit top off and his suit

⁵ Billy Matthews is a pseudonym

⁶ Max Johnson is a pseudonym

pants and underwear down. You were spreading his buttock cheeks with your hands, and were licking his anus. This is Charge 11: indecent act with child aged 16 or 17 under care, supervision or authority. Later that same day Max, told his mother that he 'never wanted to go back there [the Academy]', and indeed he never returned.

- 23 Darcy Anderson⁷ received piano lessons from you at the Academy. Between April and June 2017, when Darcy was 16, you drove Darcy and three other students to the Byron Bay Blues Festival. During the drive, and whilst Mr Anderson was seated in the front passenger seat, you reached over and touched his upper right thigh close to his genitals.
- 24 You also sent photographs to Darcy using Snapchat, one of a penis and another of yourself lying down on a bed and then followed this with a message saying 'that's what happens when your young cousin / nephew gets Snapchat'.
- 25 On a later date you stood behind Darcy while he was practising the piano, pressing your genitals into his back while he played. This act underpins Charge 12: indecent act with a child aged 16 or 17.
- 26 You had known Alysa Nolan⁸, the mother of Michael Stockton⁹, for a number of years. Ms Nolan spoke to you about enrolling Michael and her two other sons in music tuition as a means of distracting them from traumatic family events involving their biological father and the loss of a grandmother and uncle in a car accident.
- 27 You provided Michael with weekly lessons, and the relationship between yourself and his family progressed to where all the Stockton boys would stay overnight at your family home.

⁷ Darcy Anderson is a pseudonym.

⁸ Alysa Nolan is a pseudonym.

⁹ Michael Stockton is a pseudonym

- 28 Your offending against Michael Stockton occurred between July and December of 2017, when Michael was 11 years old.
- 29 One evening, when Michael was lying on his front in his bed at your holiday house in Pelican Point, you entered the room and pulled his pants down exposing his buttocks. You then licked your finger, and put it in between his buttock cheeks. This is Charge 13: sexual assault of a child under 16.
- 30 On another occasion, Michael and his two brothers were staying overnight at your family home. In the evening, you watched a movie with him while your wife and two daughters were in bed and his brothers were asleep. You placed your hand on his crotch over his clothing and then touched his genitals under his clothing. You then proceeded to play with his penis and testicles throughout the movie. This is Charge 14: sexual assault of a child under 16.
- 31 During music lessons at the Academy, you would seat Michael on your lap and place your hand on his penis and testicles over his clothing. This is Charge 15: sexual assault of a child under 16 (course of conduct).
- 32 On another occasion, you tried to place Michael's hand on your crotch and when he pulled his hand back, you said to him 'don't tell anyone'. You then placed your hand in Michael's pants but he resisted, telling you 'I don't really wanna do this anymore'.
- 33 On another occasion, when Michael was staying in a tent at your house, you pulled his pants down and used your hand to masturbate his penis for a long time. Michael remembers his penis went 'really big and hard'. This is Charge 16: sexual assault of a child under 16. You then tried to get Michael to touch your own penis but he refused.
- 34 Jesse Barkley¹⁰ received drum lessons from you. On an evening sometime between January and June 2018, and following band practice, you offered

¹⁰ Jesse Barkley is a pseudonym.

Jesse 'breathing advice' and when he lay on the floor you placed your hands on his chest down to his groin area. Jesse was 15 years old. This is Charge 17: sexual assault of a child under the age of 16.

35 You were first interviewed on 2 March 2018 in relation to the online offending. You were interviewed again in June and September 2018, and again, in January 2019. In those various records of interview you either denied the offending or sought to paint yourself as a victim of sexual approaches by others. You made partial admissions in relation to Mr Vianelli.

36 In his Victim Impact Statement (exhibit 2), Aaron Vianelli wrote that:

"No matter how hard I try what happened to me will never just go away

..

only now, as an adult, I am beginning to grasp just how much it cost me when I was a young person."

37 He speaks of feelings of fear, shame and guilt. When he considered reporting your crimes it was those feelings that held him back.

"Even though I was only a child, I feared I would be blamed. I still carry these fears, and feelings of guilt and shame today."

38 He describes how he became mistrustful of males in positions of authority. His self-esteem was low and it caused immense confusion for him in his understanding of his own sexuality.

"In my adolescence I would feel so incredibly angry at times and beat myself up over this because I didn't understand why. The lack of understanding of what happened to me, as well as my symptoms of trauma, caused enormous frustration, and fighting to not show this frustration to others was a daily battle for me."

39 He loved music and playing the piano and yet for him playing the piano still remains irreversibly tied to the abuse you practised upon him. Feeling overwhelmed by the memories in his hometown he left and moved to the city. This, happily, is where he found a partner.

40 He ends with a note of optimism.

“... all the hard work I’ve put in over the years, particularly this last year and a half, has loosened the grip that this part of my history has had over me. The trauma hasn’t left, but it doesn’t overwhelm me to the same degree it used to, and I’m finding more and more ways to manage it rather than it manage me.

...

I’ve accepted that what happened to me is never going to go away, it is a part of my history, but I’ve also realised that it doesn’t define who I am.”

41 Aaron’s mother, Elise Vianelli¹¹, writes in her Victim Impact Statement (exhibit 8) of her guilt about sending her son “to this teacher, hurt and sorry that he was unable to confide in myself, or my husband, about the crime”.

42 Max Johnson in his Victim Impact Statement (exhibit 3) wrote simply of how he had held the secret (of your abuse) for so many years.

“I felt so ashamed and my self-worth was extremely low. I have attempted to take my life twice. If I had died during either of those attempts, no one would have known why.”

Max loved music but:

“My only way to cope with what Wayne did to me that day was to never return to the academy, this included cutting off from there completely, all of my friends and fellow students, my music and the community that surrounded it. I withdrew from this life and tried to block it out with drugs and self-punishment. ... This new life introduced me to a different world, a world of violence and disrespect and more isolation.”

43 Of your offer of a scholarship of \$14,000 he writes:

“Most painfully he instilled a sense of false hope in me that I was special and gifted and I believed in this. I was so consumed by this belief.

To find out that none of this was true, that it wasn’t real, when I think about this now it almost feels more painful than the sexual assault itself. I continue to blame myself for not seeing through this and ask myself how I could have been so stupid?”

44 He wrote of how he had confided in you about his unresolved sexuality and his attendant confusion because he thought you were a safe adult. The loss of you as a mentor was a loss he felt keenly: “I also lost a mentor that day.”

45 Of your offending he writes:

¹¹ Elyse Vianelli is a pseudonym.

"[It] has greatly affected my sexual intimacy with my partners. I am still unable to go to sleep face down. One day I'm going to wake up and be on my stomach and I won't panic. This is a marker I've set to help track my recovery from this."

46 He also ends with a note of optimism:

"Although my pain is ongoing I found music again for myself. I am on track to becoming the person that I set out to become. ... My history is not going to predict my future."

47 Michael Stockton in his Victim Impact Statement (exhibit 6) wrote of how:

"I was upset after being hit by my dad and the death of my grandmother and uncle in a car accident... [I] wanted to do things to get my mind off everything bad.

Because of what Wayne did, I don't like to be with anyone one-on-one because I do not feel safe.

...

I didn't know what Wayne was doing was wrong until Mum had talked with me one day about "if someone touches you it is not okay". I didn't tell my mum what was happening to me because I thought Wayne would hurt me.

I used to love singing ... but now I don't and I will not sing because it reminds me of him.

...

[Wayne] comes in my dreams sometimes and I can't sleep, when I walk into my home sometimes I think I see him sitting on the couch ... and it scares me. ... I often sleep in my mum's room so I can be safe."

48 His mother Alysa Nolan wrote in her Victim Impact Statement (exhibit 4) that you had taught her new husband Brett Nolan's¹² children, and had been an honoured guest at their wedding. She viewed you as a positive role model for her boys and she had confided in you about family traumas they had been through including abuse by their biological father. She is now almost incapacitated with guilt.

"I feel I told him everything he needed to groom my family and assault my children and this is something I may never forgive myself for. I am constantly looking back and questioning my actions and my judgement, angry that I did not see this happening. I can't shut my mind off and I hardly sleep anymore because of the restlessness.

¹² Brett Nolan is a pseudonym.

...

I withdrew from my husband which has had a profound impact on our relationship, I was not able to function as a normal person and partner. I could not fulfil my duties as a housewife and partner and mother and that makes me feel so ashamed that I have let my family down. I feel like I have let everyone around me down: my family, my friends, my animals and my farm.

Robinson has taken years of my life, plaguing it with anger, hurt and sadness. It feels like everything is falling apart around me.”

49 Her husband Brett Nolan, your former friend, also speaks in his Victim Impact Statement (exhibit 5) of his profound sense of betrayal, anger and upset, and of the pain of witnessing the impact of your offending upon his wife.

50 Emma Barkley¹³, the mother of Jesse (Victim Impact Statement, exhibit 7) writes starkly that:

“My life as a mum and woman was turned upside down when I find out about what had happened to [Jesse]. I was sucked into a pit of pain, disbelief and darkness.”

51 She writes of a guilt and observations that:

“It has been hard watching [Jesse] change going from a carefree happy confident loving young boy to a serious, anxious, quiet and unhappy one with anger issues. ... He struggled earlier in the year with suicide having suicidal thoughts and feelings. He has struggled with school, friendships and had a relationship breakdown. ... The impact of what happened and the after effects have been challenging and forever life altering...”

52 Stephanie Matthews¹⁴, the mother of Kyle and Billy, in her Victim Impact Statement (exhibit 9) speaks of her anguish as a parent, feeling that she allowed the inappropriate touching of her sons. She adds:

“if more boys have suffered in the years since, then I will always feel deeply sorry that we didn’t report anything earlier”.

53 Darcy Anderson in his Victim Impact Statement (exhibit 10) identifies that your offending against him has -

“... affected my relationships with older people I respect and look up to, as I have a concern trust in them will be betrayed.”

¹³ Emma Barkley is a pseudonym.

¹⁴ Stephanie Matthews is a pseudonym.

He speaks of how he lost his motivation to continue developing his skills as a pianist.

54 Whilst of course such statements must not be allowed to overwhelm the sentencing process, no one can be in any doubt of the traumatic and lasting impact of your offending upon your victims.

55 I turn now to your personal circumstances.

56 You were born on 1 February 1972 and are now 48 years of age. You were between the ages of 32 and 46 at the time of your offending. You grew up on a rural farm property in central Victoria north of Wangaratta, the youngest of 7 siblings. Indeed, the age gap was such that effectively you grew up as an only child. Your parents were strict Christians who taught you to fear God and to work hard. All the children were expected to work on the farm. Your father died in 1998 and your mother is in full-time care. It was your mother who noted your aptitude for music and pressured you to pursue a career in that field. It seems you were bullied at school and subject to great parental expectation. You attended Melbourne University and after your degree in music studied for an advanced diploma in agriculture.

57 Your professional life has been devoted to the pursuit of musical excellence. Following graduation you taught at various schools and colleges before founding Northern Rivers Academy of Music in 1998. Initially, the Academy was a for-profit business but in 2010 became a not-for-profit institution served by a board. For 20 years until your arrest on these charges you were the founder, CEO and program director of the Academy. You also organised music festivals. At its peak, the Academy employed 14 staff. More recently it has struggled financially and has now closed following your arrest.

58 In 1998, shortly after founding the Academy, you inherited your parents' farm following your father's death, but upon condition of payments being made to your siblings in satisfaction of their share. Meeting these payments was a

burden for you but you met it. The farm has endured the constant challenges of drought and flood, and was eventually sold in 2018. Your family still live in the house.

59 You are currently working for a renewable energy company primarily as a delivery truck driver.

60 Over the years you've also dedicated yourself to voluntary work, including membership of the CFA and various roles focusing upon rural leadership and aiding the disadvantaged. You have had to withdraw from all of these roles upon your arrest. There is no doubt but that you have been a valued member of your local community.

61 You married at the age of 31 and have 2 daughters aged 11 and 14. Your wife works as a nurse and remains supportive of you. Since your arrest on these charges your access to your daughters has been restricted. Your wife now lives in the farmhouse which you had maintained, and she struggles to adapt to your absence, a factor which weighs heavily upon you.

62 Tendered on the plea as exhibit 15WKR was a bundle of character references from your wife, your current employer and members of your family. All speak of your quiet, accommodating character, your love of music, your work ethic, your commitment to the wider community and your sorrow and shame at the impact of your offending upon your family.

63 Exhibit 13WKR was a report from Mr Patrick Newton, clinical and forensic psychologist dated 20 January 2020. Mr Newton was not called on the plea.

64 Relevantly, Mr Newton observes that you had engaged in "effortful distortion of test results", thereby invalidating the results achieved. Mr Newton identified you as "having limited insight into the gravity of his situation and he struggled to engage with the discussion of his offending". As such, your self-report should be treated with some circumspection.

65 Mr Newton reported a personal history consistent with the submissions of your counsel. You received little, if any, sex education on account of your parents' conservative religious views. As a pubescent adolescent you were unclear about your sexual orientation. You felt predominantly attracted to females but also experienced desires for other young men. Being skinny you had a particular fascination for the athletic build. These latter desires you rejected on religious grounds, but, nonetheless, the attraction and fascination remained with you. In consequence as a young man you were not intimate with either gender. You reported that your first sexual partner was your wife whom you met in 2003, when you were 31. Over more recent years you began to use online hook-up apps such as Grindr, and had casual sexual encounters with other men.

66 You reported a history of social anxiety dating from adolescence. Your CFA work had also presented you with emotional challenges including you being first responder at your brother-in-law's death after he had been crushed by a falling tree. The farm presented constant financial challenge. Your wife encouraged you to receive treatment but you did not do so.

67 Following your arrest you experienced significant reactive anxiety and depression. Mr Newton observes that the pre-eminent cause of your distress is your legal situation, but "issues from his past are also playing a continuing role". Your symptoms are of a severity to warrant a diagnosis of an adjustment disorder with mixed anxiety and depressed mood. Mr Newton notes that:

"There is some risk that his mood could deteriorate in the period following sentence and it would be prudent for him to have access to some mental health care at this time".

68 You told Mr Newton that you accepted full responsibility for your conduct, but, significantly, then undermined this by repeatedly stating that you considered that the complainants had been the instigators of sexual contact in almost all instances.

69 You stated that you had “forgotten about [your] boundaries” and “allowed things to progress too far”, but consistently portrayed yourself as responding to the complainants’ overtures rather than as the instigator of sexual contact.

70 Mr Newton intended to conduct a detailed review of your sexual adjustment as part of his assessment report but, as with other areas, you had considerable difficulty providing a clear account regarding sexual matters and it was only with persistence and structure that Mr Newton could glean any information. You acknowledged eventually having experienced a strong curiosity about sex with men which curiosity has evoked powerfully ambivalent feelings of guilt and shame. You also acknowledged experiencing strong sexual arousal to pubescent boys and boys on the cusp of puberty.

71 Importantly, Mr Newton notes:

“Mr Robinson has been unclear about his sexual ‘boundaries’ and the issues of power, trust and propriety inherent in his role as a teacher. He described how his interest in the complainants have progressed from seeing them as students, to seeing them as friends, relationships progressing to become more sexualised, and ultimately to culminate in sexual acting out that encompassed the multiple indecent [and penetrative] acts, sexual assaults and other offending that now bring him before the Court.

Beyond this and inherent to his offending, was Mr Robinson’s lack of clarity about the sexual development of the complainants: attributing to them a precocious sexual maturity that provided him with the ability to rationalise engaging in sexual exploration with them despite the fact that they were below the age of consent.”

72 Applying recognised psychometric assessment tools for future risk and his clinical judgement, Mr Newton considered that:

“Mr Robinson engaged in long-term problematic sexual behaviour; his offending involved diversity and escalating severity as well as significant psychological coercion through the use of his relationship of trust, care and oversight of the complainants. He manifests limited insight about his offending, experiences significant psychosexual deviance as a result of his own early difficulties and has acted this out in his offending. Moreover he has experienced significant problems in his intimate relationship, has poor self-awareness, has limited coping skills, and his coping strategies are not well developed.

...

I would estimate his risk of recidivism as falling no lower than the

moderate risk category. That is, his risk of recidivism is assessed as being approximately the same as that of a 'typical' sex offender undergoing sentence. The most likely risk scenario would be of further contact offending against adolescent males with whom Mr Robinson had some pre-existing connection, but there is also a risk of further online offending."

73 Mr Newton does note, more positively, that if your issues relating to motivation can be overcome,

"there are no extant issues to suggest that he would not be able to institute effective relapse prevention plans, to engage with treatment or to benefit from the protective aspects of supervision and oversight."

74 He concludes:

"completion of a comprehensive sex offender treatment program would be the single most important factor in the prevention of recidivism in Mr Robinson's case."

75 Your counsel Ms Karapanagiotidis accepted that your offending was serious and represented a gross breach of trust. She accepted that an immediate and significant term of imprisonment was the only appropriate disposition. In mitigation of sentence she urged the following matters upon the Court.

76 Your plea of guilty - which brought with it the utilitarian benefit of saving the community the time and cost and emotional trauma of a trial, and further demonstrated a willingness on your part to facilitate the course of justice.

77 She submitted that your plea should be viewed as an early plea of guilty, having regard to the procedural history of this matter with disclosures being made to prosecution authorities over the course of the year. I regard your plea as having been entered at an early, if not the earliest opportunity.

78 She submitted that in a case such as this your plea had real value which should be recognised in the sentencing disposition. I agree.

79 She further submitted the plea is evidence of your remorse. On the material in front of me you are acutely aware of the impact of your offending upon you and your family and the standing that you had in the community. You are at

this stage perhaps less understanding of the devastating impact of your offending upon your victims. I am prepared to accept that you are developing an insight.

80 She urged upon me the principle of totality and the need to avoid a crushing sentence.

81 You have no prior history although Ms Karapanagiotidis accepted this may have less relevance given that it was your standing as a respected teacher placed your victims into your care.

82 She submitted that you had good prospects for rehabilitation in light of the absence of prior criminal history, your employment and community contributions, the continued support from your family and your capacity to engage with treatment. She urged a shorter than usual non-parole period in consequence. I find your prospects to be more guarded at this stage and dependent upon your willingness and motivation to engage in treatment, as indeed Mr Newton remarks.

83 She urged me to have regard to the extra-curial punishment that you had already suffered, including loss and destruction of your reputation and standing in the small community, your forfeiture of the various volunteer roles you performed, your loss of business and your reactive depression. I give such weight as I can to that submissions but note that loss of the community's esteem is the inexorable consequence of offending of this kind.

84 She submitted that proposition five of the well-known case of *Verdins*¹⁵ was enlivened having regard to your adjustment disorder and that, due to that disorder, prison would be more burdensome for you than for a person in normal health. I give what weight I can to this submission noting, however, the tentative conclusion of Mr Newton. I also accept that whilst in prison you will carry the knowledge of the reduced state of your family circumstances for

¹⁵ *R v Verdins; R v Buckley; R v Vo* (2007) 16 VR 269.

which you bear full responsibility.

85 She submitted that having regard to your prior history and your suitability for offence specific treatment the need for specific deterrence was in your case reduced.

86 The learned prosecutor, Mr Cordy, submitted in succinct and clear submissions that your offending represented individually and collectively serious examples of the breach of trust placed in you by the students and their parents, some of whom were good friends of yours.

87 He submitted correctly that the gravity of the offending lay not just in the physical act, but also in the context within which the act took place, the relationship of authority, and the age disparity.

88 He submitted that general deterrence, denunciation and just punishment were all primary sentencing considerations in this case. I agree.

89 He submitted that your offending covered a period of 13 years and encompassed multiple victims all of whom were in your care. You are now only 48 years of age. There was a clear need in your case for specific deterrence. I agree.

90 He accepted that your plea of guilty was entered “relatively” early. When pressed, Mr Cordy accepted that the matter was always going to resolve and there was never a prospect of any of your victims having to give evidence. Therefore your plea was of immense value.

91 He submitted that there was no evidence of your remorse. He pointed to your attempts at victim blaming recorded by Mr Newton, and to your concerns at the impact upon yourself and your family, rather than your victims.

92 He urged me to have little regard for any extra-curial punishment, observing that had you paused for a moment to consider what was involved in your

offending and the inevitable consequences of detection, you may have ceased. But you did not.

93 He submitted there was not sufficient material in front of me so as to engage the fifth limb of *Verdins*. But if, however, it was enlivened, it should have very little weight.

94 He reminded me of the serious sentencing provisions in your case. He did not ask however for a longer than commensurate sentence, submitting that orders for cumulation could sufficiently serve the sentencing purpose of protection of the community.

95 Mr Robinson, offending against children will always be viewed by the courts as serious offending. There has been a growing recognition by the courts of the lasting impact that such offending has upon children and how it can often lead to lives that are not fully lived. Children who have been sexually offended against have their innocence and sense of self stolen from them. They blame themselves for acts committed against them by adults and for which they are completely without blame. They struggle to engage in healthy relationships. They struggle to find their place in the world. Crimes against children are crimes against our common future and our common humanity. The courts have said time and time again that they will do everything within their power to protect children.

96 Further, there is an absolute prohibition on sexual activity with a child which is founded upon a presumption of harm. The prohibition is intended to protect children from the harm presumed to be caused by premature sexual activity, that is, activity before the age when a child can give meaningful consent. Sexual activity between adults and persons under the age of 16 can have a lasting impact upon the emotional and psychological well-being of the victims of such offending. On behalf of the community, Parliament has decided that those under 16 cannot meaningfully consent to sexual activity, even if

subjectively attracted to the idea of participating in such activity. The law also criminalises acts done in preparation for contact sexual offending: the online steps taken to facilitate contact offending so as to protect children. Parliament also prohibits sexual activity between a child aged between 16 and 17 and a person who stands in a relationship of care supervision or authority over that child, such as a teacher. This is intended to protect children from exploitation of that relationship.

97 Wayne Robinson, whilst you presented to the world as a happily married teacher of great community and public standing, you nurtured a deviant sexual interest in adolescent and prepubescent males. The origin of these desires must remain a matter of conjecture. I am satisfied that at the time of your offending those desires were entrenched, as is made clear by the online exchanges the subject matter of Charge 18. The institute of learning that you had founded became a portal of access to your victims. Over thirteen years and with a predator's instinct, you chose the vulnerable, the confused and the grateful. By slow and incremental steps and pretences, always at your direction and initiation, and with equal traumatic impact upon the emotional and sexual development of your victims, you reduced your victims to mere objects to be used by you in satisfaction of your deviant desires. In the process, you took from them their innocence and their love of music.

98 Aaron Vianelli had confided in you as a trusted adult. You repaid that trust by making him complicit in your abuse of him. You gave no thought to the impact of your actions upon the child, but offended against him wherever and whenever your desire so dictated: even in his own home. You engaged in regular acts of sexual penetration with that child. You took from him the opportunity to discover his sexuality in his own time and manner.

99 You were a friend of the family of Michael Stockton and a guest at his mother's wedding. You knew of the trauma that the boy had suffered yet that did not stop you. When he had been placed by his trusting mother into your

care and allowed to stay with your family you abused him almost as a matter of course in a brazen manner. Your offending against him was callous indeed. It was a most grave breach of trust.

100 Max Johnson loved music and was offered the prospect of a scholarship by you. He felt he had found somewhere he could belong and regarded you as his mentor. He gave you his loyalty. You repaid that loyalty by subjecting him to a grave sexual assault as he lay sleeping and exhausted in your own home where he believed he was safe and protected.

101 All of your victims were subjected to indecent or sexual touchings by a person in a position of authority over them and in whose care they had been placed. The gravity of your offending against each victim lies not merely in the act, but also in the calculated abuse of that relationship of authority and the trust placed in you. Your moral culpability for your offending is high indeed.

102 Mr Robinson, the sentencing process is not about revenge nor retribution. The sentencing process cannot give back to your victims that which they feel has been taken from them. In sentencing you I must have regard to a range of different factors. I must give effect to the principle of general deterrence. That is I must deter others from behaving as you did. I must consider specific deterrence. That is I must deter you from any repeat of such offending. I must consider the need to protect the community from you. In my view only successful engagement in treatment will reduce your risk of reoffending. I must express the community's denunciation of your conduct. I must take into account the effect of your crimes upon your victims. I must have regard to the statutory maximum penalties for the offences to which you have pleaded guilty and to current sentencing practices. I must try to balance your personal circumstances with the circumstances of your offending. I am required by law to pass no longer a sentence than is necessary.

103 In sentencing you on Charges 1 and 2 and 15 I must have regard to the

totality of the offending that constitutes the course of conduct that is charged. That is to say, I must have regard to the nature and circumstances of the acts committed by you and the period over which they occurred.

104 In sentencing you on Charges 3, 4, 6 and 10, I have regard to the conduct of which the charged act is said to be representative. You fall to be sentenced as a 'Serious Sexual Offender'. Community protection can be met by the moderated orders for cumulation that I have made.

105 General and specific deterrence, denunciation, just punishment and protection of the community are all relevant sentencing considerations. I have regard to all the matters that have been urged upon me by your counsel. However, as your counsel conceded and as you must well know, your offending is of such gravity that it can only be met by a substantial and significant term of imprisonment.

106 Mr Robinson, would you please stand?

107 On Charge 1, indecent act with a child under 16 as a course of conduct, you are sentenced to a term of imprisonment of nine (9) months.

108 On Charge 2, indecent act with a 16 or 17 year old child as a course of conduct, you are sentenced to a term of imprisonment of five (5) months.

109 On Charge 3, indecent act with a child under 16 (a representative charge), you are sentenced to a term of imprisonment of two (2) years and four (4) months.

110 On Charge 4, indecent act with a child under 16 (a representative charge), you are sentenced to a term of imprisonment of ten (10) months

111 On Charge 5, sexual penetration of a child under 16, you are sentenced to a term of imprisonment of five (5) years

112 On Charge 6, sexual penetration of a child under 16, you are sentenced to a

- term of imprisonment of four (4) years and seven (7) months.
- 113 On Charge 7, sexual penetration of a child under 16, you are sentenced to a term of imprisonment of four (4) years and eight (8) months.
- 114 On Charge 8, indecent act with a child under 16, you are sentenced to a term of imprisonment of five (5) months.
- 115 On Charge 9, indecent act with a child under 16, you are sentenced to a term of imprisonment of six (6) months.
- 116 On Charge 10, indecent act with a child aged 16 or 17 under care, supervision or authority (a representative charge), you are sentenced to a term of imprisonment of four (4) months.
- 117 On Charge 11, indecent act with a child aged 16 or 17 under care, supervision or authority, you are sentenced to a term of imprisonment of two (2) years and four (4) months.
- 118 On Charge 12, indecent act with child aged 16 or 17 under care, supervision or authority, you are sentenced to a term of imprisonment of three (3) months
- 119 On Charge 13, sexual assault of a child under 16, you are sentenced to a term of imprisonment of two (2) years and six (6) months.
- 120 On Charge 14, sexual assault of a child under 16, you are sentenced to a term of imprisonment of fourteen (14) months.
- 121 On Charge 15, sexual assault of a child under 16, you are sentenced to a term of imprisonment of seven (7) months.
- 122 On Charge 16, sexual assault of a child under 16, you are sentenced to a term of imprisonment of two (2) years and eight (8) months.
- 123 On Charge 17, sexual assault of a child under 16, you are sentenced to a term of imprisonment of five (5) months.

- 124 On Charge 19, possession of child abuse material, you are sentenced to a term of imprisonment of four (4) months.
- 125 I order that: four (4) months of the sentence on Charge 1, seven (7) months of the sentence on Charge 3, three (3) months of the sentence on Charge 4, seven (7) months of the sentence on Charge 6, eleven (11) months of the sentence on Charge 7, two (2) months of the sentence on Charge 8, two (2) months of the sentence on Charge 9, twelve (12) months of the sentence on Charge 11, twelve (12) months of the sentence on Charge 13, five (5) months of the sentence on Charge 14, one (1) month of the sentence on Charge 15, ten (10) months of the sentence on Charge 16, one (1) month of the sentence on Charge 17, and one (1) month of the sentence on Charge 19 run cumulative to each other and cumulative to the sentence on Charge 5.
- 126 This makes a total effective state sentence of eleven (11) years and six (6) months.
- 127 I direct that you must serve a period of seven (7) years and eight (8) months of that sentence before you are eligible for parole.
- 128 On Charge 18, using a carriage service to transmit indecent communication to a person under the age of 16, you are sentenced to a term of imprisonment of six (6) months. The sentence is to start four (4) months before you are eligible for parole on the state sentence.
- 129 This, effectively, means that you must serve seven (7) years and ten (10) months before you will become eligible for parole.
- 130 Pursuant to section 18(4) of the *Sentencing Act 1991* (Vic), I declare that you have served 14 days of the sentence that I have passed upon you and I direct that this be entered into the records of the Court.
- 131 On Charges 2 – 17 and Charge 19 you are sentenced as a Serious Sexual Offender and I direct that this be entered into the records of the Court.

- 132 Pursuant to section 6AAA of the *Sentencing Act*, had you not pleaded guilty you would have been sentenced to a total effective sentence of fifteen (15) years with a non-parole period of (12) years.
- 133 Pursuant to the provisions of the *Sexual Offenders Registration Act 2004 (Vic)* you are now a registrable offender and the period of registration is for the rest of your life.