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IN THE COURT MARTIAL

held at

MILITARY COURT CENTRE, CATTERICK

on the

17th day of January 2025

in the case of

REX

V

8304525P Squadron Leader Andrew Paul CROSBY

Royal Air Force Station Spadeadam

JUDGE ADVOCATE

Judge Legard

Assistant Judge Advocate General

SENTENCING REMARKS

JUDGE ADVOCATE: Squadron Leader Crosby, just remain seated for the moment, please. You fall to be sentenced today in respect of four separate charges of disgraceful conduct of an indecent kind which is an offence exclusive to the Services. To each of those Charges you pleaded guilty and for that you will receive an appropriate amount of credit in due course.

You are 52 years of age, you are a married Squadron Leader, and you have over 33 years' service behind you, unblemished service it has to be said. You are also a man of hitherto good character.

This is an extremely troubling and sad case. Sad to see a 52-year-old man with your service and seniority appearing before a Court Martial. It will no doubt be an acutely humbling experience for you. A man of your experience and seniority needs no reminder from me that if our armed services are to remain operationally effective, then all people, whoever they are, whatever their sex, must be able to come to work, attend a social function in the safe and secure knowledge that they will not be the victim of unwanted physical assaults or touching. Instead, be afforded the respect that they properly deserve.

The facts have been opened in commendable detail by Colonel Adair. I do not propose to rehearse the entirety but suffice to say, that on 14th October 2021, there was an all ranks dining in night. That was in honour of the new Station Commander at RAF Spadeadam. After the meal, [name redacted] was approached by you, and he was surrounded by a large number of people. You were clearly drunk, you were slurring your words, at one point you had spilt port on your shirt.

Later in that evening, you spoke to [name redacted] again and on that occasion, you took a step forward towards him, you thrust your right-hand up between his legs, you grabbed him by the genitals, and you then squeezed hard. It was a forceful grab, it caused pain. It in fact caused [name redacted] to be raised or lifted up and it was only by stepping away that caused you to release your grip. That forms the basis of Charge 1.

Another person there present was [name redacted]. He joined a little later, he also described you, someone he did not know, as visibly drunk. Without any preamble, without any conversation, between the two of you, you approached him again using your right hand you grabbed hold of his penis and testicles and squeezed them in his words, "As hard as you could", that is Charge 2.

Just a few minutes later you then approached then [name redacted]. Now, [name redacted] was in your direct chain of command at the time. You placed your left arm around his lower back, you lowered your hand to his bottom, and you cupped his right buttock before pushing your fingertips between his buttocks up and down a few times in quick succession. That caused [name redacted] to jolt upwards. Those facts underpin Charge 4.

[name redacted] sort of moved away, he was understandably shocked, humiliated and embarrassed. You were told to leave the bar by the PMC, but you returned, notwithstanding. You had to be removed a second time. Now, the final victim of your behaviour that evening was a civilian from whom we have heard, [name redacted]. She had been working behind the bar; she also described you as drunk. She was collecting glasses from the tables, in performance of her role, when she turned around to find you right behind her, at which point you cupped her breast. She told you to stop but you leant towards

her as if you were going to kiss her and then proceeded to grab her groin with your hand. Those facts underpin Charge 3.

Now, it is clear to the Board that the chain of command did not exactly cover themselves in glory with regard to this matter either. They dragged their feet or in the words of some of the victims attempted to brush this matter under the carpet. This was, of course, before the zero-tolerance policy, across all three services, came into effect. In any event, minor administrative action was taken against you, although in fairness that was focused on your general drunkenness and the CO at the time, was not aware that there were necessarily four victims of your conduct on that particular evening.

Nevertheless in 2023 some two years later [name redacted] did provide a formal complaint to the Service police and that acted as a catalyst for the other victims to all come forward. You were interviewed by service police on two occasions, November 2023 and January of last year. You confirmed your presence, you said you did not recall what had happened that night, but it was something that you would not do. The lack of recollection speaks for itself. You did mention during those interviews that your drinks may have been spiked.

That said, as the Crown have made clear, you did not make any mention of potential or possible spiking either following the incident or during the minor administrative procedures which followed. The first mention that you made is found in your medical records, that is after your first police interview in November 2023.

I turn now to the victim personal statements. These make for harrowing reading and/or listening. They go to show that offending of this nature can and often does have lasting consequences for those affected. I start with [name redacted]. Your actions that night have caused her to shut off emotionally and physically. It has impacted her relationship and her intimacy with her husband. It has led to a loss of self-confidence, sleep disturbance, social anxiety and it has affected her ability to perform her job. Perhaps most troubling of all, it has led to a loss of trust in her dealings with senior male members of the RAF. It was no doubt a humiliating and embarrassing episode for [name redacted], and it has also led to serious mental health consequences including contemplation at one point of suicide.

[name redacted], his victim personal statement also makes for extremely sad reading. Here we have a young officer, in your chain of command, who has suffered enormously as a consequence of what you did to him that evening. We listened with care to what he had to say from the witness box. That single incident effectively transformed a promising young flying officer into a shadow of his former self. Someone who became depressed and insular, effectively shut himself off from his own peer group. Humiliated, embarrassed, forced to change his work routine. It impacted his personal

relationships, and it made him feel as if he was being painted more as a villain as opposed to a victim. Such was the impact upon him that it was a significant contributory factor to him failing his Phase II training. From having been, prior to this incident, in a top position.

Subsequently he has elected to leave the Royal Air Force. How extraordinarily sad that the RAF should lose such a promising individual, and a large part due to the drunken and disgraceful actions of his superior officer within his chain of command. If ever there was an example as to the damaging and lasting impact that such behaviour such as this can have then that is it.

[name redacted], he was a young AS1 at the time, relatively new to the RAF. Again, in your direct chain of command. He was left shocked and bewildered by your actions and it led to him also becoming socially and professionally withdrawn. The fact that your chain of command considered it appropriate to keep you on base following this incident, is not something for which you are directly responsible. Nevertheless, it is now [name redacted] view that what you did to him that evening was a clear abuse of your position and rank.

Finally, [name redacted]. Another young flying officer upon whom this incident has had a massive life changing impact. In terms, he holds your actions accountable for having contributed to the breakdown of his relationship and also for slowing his career progression. He too has suffered immeasurably, he has been forced to seek professional counselling and is, to put it mildly, a shadow of his former self. I am going to repeat a passage from his victim personal statement, and I do say in order to try and bring home the seriousness of what you have done. I quote:

“The biggest question that haunts me to this day is why me? What did I do to deserve this? I feel this is something I will never get the answer to. I feel as though his behaviour was targeted at males, he took advantage of his position of power. The fact that I was new and was not wise to the Air Force, I only wanted to do my best on my first tour and was totally taken advantage of. The whole experience has been horrendous from the incident to now, it has made me lose confidence, resilience, and trust. Ultimately changing me forever. It has made me question why I joined the RAF in the first place.”

How sad are those words?

Now, in determining an appropriate sentence in your case, we turn to the Revised Judge Advocate General’s Guidance in respect of an offence of disgraceful conduct of an indecent kind. I quote briefly from that Guidance:

“The object of this offence is to preserve proper standards of decency within the Services and to prevent personnel from bringing the Services into disrepute by publicly or openly behaving in an indecent manner. Conduct charged under this section may also include an element of an abuse of rank or superior position. In all cases of culpability A, the Court must consider dismissal, in addition to other sentences recommended.”

It is also an accepted proposition within this jurisdiction that the more senior the offender the more serious the offence.

Now the Board has no hesitation in concluding that these offences, each and every one of them, fall squarely within Category 1A which is the highest category, and we note that your counsel accepts and agrees with that categorisation. Culpability A due to the fact that this was persistent activity. It involved four separate victims; it was conducted over a protracted period of time. It was clearly intentional, and your voluntary intoxication affords you no defence. It also involved actual violence, both those who had their genitals squeezed record the experience as hard and painful.

Having regard to the contents of the victim impact statements, personal statements, there is no doubt in our minds that in terms of harm this is Category 1. Your actions and behaviour caused very serious harm and distress, and it is abundantly clear that those same actions had a significant deleterious effect on unit cohesion.

The start point for a single offence is one of 12 months' imprisonment with a range of up to two years which, of course, is the maximum for this offence.

The service aggravating factors in this case we find are your rank and seniority. The disparity of rank which is a separate service aggravating factor to the above. The fact that this behaviour took place in a public place where there were civilians present, which of course gives rise, amongst other things, to serious reputational risk. It is further aggravated by the fact that these offences were commissioned whilst you were under the influence of alcohol.

In mitigation we note that this of course represents your first offending of this nature, you were off duty. We note your good character, lack of previous convictions and unblemished service record. In further mitigation, we have taken into account all that has been very ably expressed on your behalf by Mr Bolt. We note, amongst other things that you are and have, over the years, struggled with your own mental health difficulties. We note the delay and passage of time during which you have not only behaved yourself, but you have also voluntarily sought help and assistance in terms of your alcohol consumption. That was via the alcohol pathway group. We have read a letter from the recovery

coordinator, Paul Cullen. Mr Bolt reminded or brought to our attention the prevailing prison conditions especially those within HMP Chelmsford.

We have read a pre-sentence report, the contents of which are self-explanatory, and we found that report extremely helpful. We are very grateful to the author for such a full and detailed report. We note that you continue to maintain your claim that your intoxication may have been the result of your drinks having been spiked. That is despite there being no evidence to support such a claim and the fact that this was not raised by you until sometime after the first police interview.

We note that you have been assessed as a low risk of reconviction and a medium risk of serious harm. We also note that there are some encouraging signs of self-awareness and recognition as to the impact that your offending has had upon not only the individuals themselves but on the wider operational effectiveness of the Royal Air Force. There are signs of remorse.

We have also read with care a number of references from friends, colleagues, former colleagues, chain of command and your assisting officer, all of whom speak very highly of you. It is clear that you are held in high regard, and that they value your professionalism. I do not propose to rehearse the contents in any detail, suffice to say that one of the common themes running through each and every one of them is how they express surprise at the fact that you acted in this way and that they view your behaviour as being wholly out of character.

Overall, however, and notwithstanding the substantial mitigation in your case, we take the view that the aggravating factors, when considered together, outweigh mitigation in your case. Can I please invite you to stand now, Squadron Leader Crosby and replace headdress please, thank you.

Dealing first with dismissal, on any objective view, this offending runs wholly contrary to the values, the ethos and standards of the modern Armed Forces. It has brought discredit upon you as an individual, and to the cap badge and the uniform which you no doubt proudly wear. This type of behaviour is inexcusable and the insignia on your lower sleeve is hard won. I have no doubt it is worn with pride, but it is also worn for a reason. Your job, indeed, your duty, is to uphold and to demonstrate the highest standards of behaviour. You ought to be a living breathing example of the person to whom young officers, air men and air women and so forth, especially should be aspiring to become.

In your case we found that the behaviour or the fact that this behaviour was perpetrated against junior colleagues in your direct chain of command and to a young female civilian to be particularly serious. For those reasons we have concluded that these offences are each serious enough to warrant

dismissal and they demonstrate that you are unfit for further service, so you will therefore be dismissed.

We have also concluded that the custody threshold has clearly been crossed in this case, and we have further concluded after careful thought and deliberation, that it would not be appropriate to suspend any custodial sentence. In coming to that view, Squadron Leader Crosby, we have taken full account of the Judge Advocate General's Guidance on the suspension of custodial sentences as well as the guidance set out and the principles that apply in the Sentencing Council Guidelines on the imposition of custodial sentences.

We have also considered other factors including your character, good character, the delay and so forth. Nevertheless, so serious do we consider these offences to be, that in our view the principles of punishment, deterrence, maintenance of discipline would not be properly or fairly met by suspending such a sentence. Nor would suspending your sentence properly or fairly reflect the totality of your offending.

Now, of course, immediate custody will come as a shock to you, and there will inevitably be an impact upon your ability to maintain parental contact, supervision for example, as well as upon your wife. All actions inevitably have consequences. More often than not, the consequences are most keenly felt by those associated with a defendant as opposed to the defendant himself.

Rather than pass consecutive sentences, which we would have been entitled to do, given there are four separate victims, but applying the principles of proportionality, and totality, we have decided instead to load the sentence onto Charge 3, being marginally the more serious given it involved the cupping of a breast, the touching of the groin area of a civilian female member of staff, in a public environment. The fact that the sentence for this Charge is greater than those for the other charges, does not mean however that the Board considers that the impact upon the other victims to be any less. We do not seek to diminish the impact in any way upon those victims by constructing the sentence in this way. We do it in order to apply the principles of totality.

Having done so the least period of imprisonment that we see fit to pass on Charge 3, is one of 56 weeks' imprisonment. We took as our start point for this Charge one of 60 weeks, we adjusted for aggravation and mitigation, that led us to 64 weeks with the aggravating factors outweighing mitigation, substantial though it was in this case. We then made a further reduction, when taking into account amongst other things the prevailing prison conditions, I have noted the case of *Ali* amongst others, the delay in this case and the fact that it is to be accompanied by dismissal. It is fair to say that

this sentence is significantly less than that which we originally had in mind. You have much to thank Mr Bolt for and his powerful mitigation on your behalf.

Now, we further reduce that to 42 weeks and that is to take account of your guilty plea which in light of the toings and froings between the defence and prosecution leading up to trial, we have judged a fair discount to be one of 25 per cent.

There will be concurrent sentences of 28 weeks imprisonment on each of the three remaining Charges. They also take into account a discount for guilty plea in respect of each of those three charges. It is a total sentence of imprisonment of 42 weeks, and you will serve up to one half of that 42 weeks sentence in custody before you are released on licence. Under current conditions you may in fact be released after having served only 40 per cent of that sentence but that is not a matter within our control or power to dictate.

When you are released, you will be on licence for the remainder of that term and you must comply with the terms of your licence and supervision, commit no further offence or you will be liable to serve a further period in custody.

Mr President will you now please pass sentence.

SENTENCE

PRESIDENT OF THE BOARD: Squadron Leader Crosby is sentenced to 42 weeks imprisonment and to be dismissed from His Majesty's Armed Forces.