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IN THE COURT MARTIAL

held at

MILITARY COURT CENTRE, BULFORD

on the

10th July 2025

in the case of

REX

V

30158896 Musician Adelle Adalin FOSTER

The Bands of the Household Division

JUDGE ADVOCATE

Judge Atwill

Assistant Judge Advocate General

SENTENCING REMARKS

JUDGE ADVOCATE: Musician Foster, having been convicted by this Court, it remains for us to sentence you for three charges of sexual assault. You have also pleaded guilty to a single charge of battery for which pleading you will receive appropriate credit. This is an offence which is covered by schedule 18 of the Sentencing Act. It is an offence to which the dangerousness regime applies, and we must turn our minds to whether or not you represent a danger to the public, a danger in respect of the commission of further serious offences of this nature. We have concluded that we do not make a finding of dangerousness in this case and so an extended sentence is not appropriate.

You are 42 years old. You joined the Army in 2011. You have served for 13.5 years with credit. You have no previous convictions or disciplinary findings.

Facts of the offence. At the time of the offences, you were serving in the Band of the Coldstream Guards. You were accommodated in Wellington Barracks. You shared a room with another female soldier. You had been moved into that shared room, having previously occupied a single room, and you found the transition challenging. You and the other woman had different lifestyles, and you clashed over practical issues about the room and about noise and privacy.

On the night of 21st to 22nd October, the victim returned from a short period of leave. She came back to the room in the early hours of the morning. She was nervous about what your reaction would be because of the disagreements you had had before. You had previously been angry with her. As a result, she set up her phone to make an audio recording in case anything happened. You had been drinking alcohol. It seems you had a serious dependency on the use of alcohol at the time. You went to the victim's side of the room and offered her a massage to help her sleep. Having done so, which she said she did not want, you began to touch her. She protested, saying that she was very conservative, that she had a boyfriend and that you should not touch her. Despite her protests, you touched her on the breast, on the buttocks and on the vagina over her clothing. This touching was the basis of the three charges of sexual assault of which you were convicted.

She managed to leave the room and made a phone call to a friend explaining what had happened. He encouraged her to report the matter but she thought she would get into trouble and so she did not do so at that stage. After a while she re-entered the room and then a further argument ensued. She remonstrated with you for having touched her improperly. You said it had been a joke. As the argument deteriorated, you grabbed the victim from her bed and tried to make her stand up. This was the basis of the fourth charge, to which you pleaded guilty.

The matter was reported to the Service Police. When interviewed, you denied touching the victim. When played the recording of the conversation in which you appeared to admit the touching but claimed it was a joke, you said you did not remember saying that. You pleaded not guilty at trial, saying that the entire event was a fabrication by the victim. The Board did not believe you. We cannot say whether your actions, disinhibited by alcohol, were motivated by sexual desire or a desire to use sexual violence to dominate the victim. It matters not. You chose to do so in a way which can only have had a very significant impact on her at the time and since and can only ever have had a dreadful effect on you in conclusion. You heard the prosecutor read parts of the Victim Personal Statement. It

is clear to us, as it must be to you, the impact that your offences had. Whatever disputes or ill feeling there may have been between you, nothing could have justified your disgraceful behaviour towards that woman and the impact on her has been real, understandable and long-lasting.

By section 50 of the Sentencing Act 2020, the Court's duty in all cases includes imposing upon the defendant, in accordance with the relevant guideline, a sentence which is within the offence range. Where the guideline describes categories of case, the Court must decide which of the categories most closely resembles the defendant's case in order to identify the starting point within the offence range. Section 259 of the Armed Forces Act requires service courts to have regard to any guidelines issued by the Sentencing Council. We have had regard to a number of Sentencing Council guidelines, specifically the offence specific guideline for sexual assault, the imposition of community and custodial sentences guideline, the reduction in sentence for a guilty plea guideline in respect of count 4, the totality guideline and the guideline on sentencing offenders with mental disorders. We have also had regard to the sentencing guidelines issued by the Judge Advocate General.

We are dealing with three charges of sexual assault. The allegations were quite properly divided into three separate charges so that any findings by the Board could be clear, but this was a single incident. Although some might view one or other of the offences as more intrusive and perhaps the cumulative effect being the most significant, we have to pass a separate sentence on each charge. We are going to do so by treating the first charge as the index offence and then deal with the other sentences under the totality principle.

We have read with care the probation officer's report. We note that in the professional assessment of that experienced probation officer you took no responsibility for the offence. You partially recognised the impact of your offence on the service. You pose a low risk of reconviction. You pose a medium risk of causing serious harm. The risk that you pose can be managed in the community. We have listened carefully to everything that has been said on your behalf by Mr Bolt. We have also read the many character references from your unit at every level, including your CO. It is apparent from them that your relationship with them was strong, and they had a warm regard for you as a person, as a soldier and as a professional musician. Your struggle with alcohol dependency does not appear to have affected any of those things. It makes your appearance here for sentence all the more tragic that they both thought so highly of you and, it seems, were unaware of any struggle or turmoil which had affected you so significantly. We make no criticism of them for this but do reflect on the challenge involved in hidden alcohol dependency and the additional burden of anxiety which falls on those who try to mask such a problem or deceive their peers and superiors about its effect upon them. We hope that the sentence we are passing will support you in meeting that challenge in the future.

We have read with care the psychiatric report, the Pre-Sentence Report and the report from Dr Farnham. It is apparent that your mental health had been challenging prior to this event, sufficiently that you required inpatient care in a psychiatric unit and ongoing mental health support including medication to this day. Dr Farnham concludes that you are suffering from alcohol dependence syndrome together with a generalised anxiety disorder and a recurrent depressive order. He considers it relevant that your anxiety and depressive symptoms have improved with abstinence from alcohol. We do not suggest that your alcohol dependency was the cause of this offending, although it was clearly relevant and a causal factor of the continued stress that you were experiencing, including perhaps the stress of sharing a room. We notice the observation that you had been consuming alcohol very heavily following a period of abstinence in the lead-up to this offence. We have had careful regard to the guideline on dealing with offenders with a mental disorder and we have reflected this in our sentence.

With any offence, be it service or civilian, the Court has to consider both your culpability, and the harm caused by the offences. Dealing firstly with culpability in respect of charges 1 to 3, there are none of the guideline factors for culpability A present. Your culpability falls into the lower bracket, that being category B. There is a service factor which increases culpability in this case and that is that the offence was committed in the victim's accommodation.

Turning to harm, harm in this context means the harm caused, intended to be caused or the risk of harm caused. We note with care that the guideline describes sustained incident as a harm factor. The incident clearly extends across all of the sexual assault charges, in fact across all of the charges. We will therefore treat one of the sexual assault charges as the index offence and recognise that it formed part of a sustained incident. To avoid double counting, we are going to apply the sustained incident element against the index charge to reflect the continuation of the offending in a totality increase rather than apply an uplift because of the presence of the two other counts. We consider the fact that your behaviour was sustained, both out of choice and despite the efforts of the victim to rebuff it verbally and physically, to be relevant to the seriousness of the offence. Given this was a sustained incident, we place the harm caused into category 2, the medium bracket. Having considered both culpability and harm, we place your offence in category B2, which provides for a category starting point of one year imprisonment with a range starting at a high-level community order and rising to two years imprisonment.

Having categorised the offence by reference to culpability and harm, we then go on to consider the aggravating and mitigating factors which are relevant. We consider the commission of the offence

while under the influence of alcohol to be an aggravating factor justifying an upward adjustment to the category starting point. There is also a service factor increasing seriousness, that being deliberate targeting of the victim. You had a dispute with this woman, and you chose to further that dispute through sexual violence. Conversely, we find your previous good character, your exemplary service record and positive character, your mental disorder, which we find in part to have set the conditions for your offending although not to have directly caused it, to be mitigating factors justifying a downward adjustment to the category starting point.

Taking into account both the aggravating and mitigating factors, we consider it fair to make a significant downward adjustment to the category starting point. Despite that adjustment, this offence in combination with the other offences is so serious that the custody threshold is passed. It is so serious that only a custodial sentence is sufficient. The appropriate sentence is six months imprisonment. We have considered the guidelines in the Sentencing Council and Judge Advocate General's guidance on suspension with care. We consider there is a realistic prospect of rehabilitation provided you continue to address your underlying challenges, that you do not pose an uncontrollable risk to the public and that the overall punitive effect can be sufficient without you serving an immediate sentence of imprisonment. Accordingly, we are going to suspend the sentence of imprisonment for 18 months.

You must commit no further offences in that time, or a sentence of imprisonment can be activated in whole or in part. In addition, you must comply with the following requirements. You will undertake 200 hours of unpaid work in the community. You will attend at the direction of the Probation Service up to 12 rehabilitative activity requirement days and you will comply with a mental health treatment requirement as set out in the report from Dr Farnham. If you fail to comply with those requirements or to do so to an appropriate standard, the Probation Service will bring you back before the Court and you risk being resentenced and having the sentence of imprisonment activated.

The category starting points and ranges are for a single offence. We are sentencing you for four offences, three of which are of a similar kind and took place one after the other, but concurrent sentences would be appropriate. All Courts when sentencing for more than a single offence should pass a total sentence which reflects all the offending behaviour before it and is just and proportionate. Normally that would mean that concurrent sentences would be longer than a single sentence for a single offence, but we have already reflected that fact in the sentence for count 1, so there will be no separate totality uplift. On charge 2 there will be no separate penalty. On charge 3, no separate penalty. On charge 4, no separate penalty.

Dismissal. The Judge Advocate General's guideline is clear. Dismissal will be appropriate in all but the most exceptional case. This was a targeted use of sexual violence against a fellow soldier in her accommodation. Service personnel have little choice about where and with whom they serve. They may live in close confines and share work and personal lives and facilities. Sexual offending undermines the bond of trust that must exist between those who serve together. It affects morale and it underpins operational effectiveness. It is apparent that your behaviour and the courage of your victim in reporting it has had a very significant and damaging effect on the cohesion of your unit. You will be dismissed from His Majesty's Service. We have taken into account the very real impact on you of this element of the sentence, both in deciding whether it is appropriate and also in mitigating the effect of the rest of the sentence by reducing and suspending it.

Compensation. We are not going to make a service compensation order in this case. You will not have the means to pay. Any sum would therefore risk being tokenistic and would simply prolong the impact of this case for your victim.

We want to say a word about the victim. She showed great courage and dignity in standing up to your offending and great courage in reporting it. Your obvious popularity in the unit cannot have made that any easier for her or for them to cope with. We hope she is now able to put this matter behind her and we encourage the chain of command to support her in doing so. The reporting restrictions in this case are permanent. It is a criminal offence for anyone to publish information leading to the identity of the victim being made public and that includes posting on social media.

You fundamentally violated the standards and values of the Army by using sexual violence against another soldier in a deliberate, sustained and significant way. You did so to a younger perhaps vulnerable woman who you had a duty to respect and, with your experience, support. That you were struggling to mask a very real mental health challenge is relevant, but it does not excuse the very serious offence that these actions represent. Soldiers are entitled to be reassured that the use of such sexual violence is abhorrent and is treated very seriously. A deterrent sentence is necessary because of the impact of such behaviour, which extends way beyond the immediate victim.

Musician Foster, taking into account the appropriate sentencing guidelines, the views of the Court of Appeal in respect of conditions in prison, the conclusions of the probation officer considering your personal mitigation and giving you an appropriate discount in respect of your plea on count 4, noting in particular that as contained in the appropriate guideline passing the custody threshold does not mean an immediate custodial sentence should be deemed inevitable, we sentence you as follows. On charge 1, six months imprisonment suspended for 18 months, 200 hours of unpaid work, up to 12

rehabilitative activity requirement days and a mental health treatment requirement. On charges 2, 3 and 4, no separate penalty. I now ask the President to formally pronounce sentence. Will you stand up, please? Madam President.

SENTENCE

PRESIDENT OF THE BOARD: Musician Foster, the sentence of the Court is as follows. On charge 1, six months imprisonment, suspended for 18 months with conditions as described. Charge 2, no separate penalty. Charge 3, no separate penalty. Charge 4, no separate penalty.