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IN THE COURT MARTIAL

held at

MILITARY COURT CENTRE, CATTERICK

on the

16th May 2025

in the case of

REX

V

30301781 Lance Corporal Oliver James Wilcox

Royal Signals

JUDGE ADVOCATE

Judge Legard

Assistant Judge Advocate General

SENTENCING REMARKS

JUDGE ADVOCATE: Please everyone take a seat. Please remove headdress. Now, Corporal Wilcox, just remain seated for the moment if you would please. Following your conviction after trial you fall to be sentenced today in respect of a single offence of sexual assault by digital penetration. Can you just go on mute please?

MR COOMBES: I will, your Honour.

JUDGE ADVOCATE: You are 25 years of age, single and a junior NCO serving with Royal Signals with just over six years' Service behind you. You are also a man of hitherto good character, you have no criminal convictions or cautions recorded against you, you have also an unblemished Service record.

The facts that gave rise to the charge and your conviction can be briefly summarised as follows. In May last year you and the victim in this case, [name redacted], were deployed on Operation Cabrit in Estonia. You were there for approximately eight weeks or so whereas she was on a standard six-month operational tour. Together with Corporal Beamish you were both accommodated in the same civilian apartment. During your time there the two of you formed what can be described as a non-exclusive sexual relationship; a relationship which was, I think at one point during the trial, described as "friends with benefits".

On 9th May, after Corporal Beamish had gone to bed, the two of you, both of whom were sober at the time, cuddled and kissed on the sofa in the communal living area. However, it is clear that, on that occasion, [name redacted] was not interested in developing the situation beyond that. You repeatedly fondled her bottom and breasts over her clothing, and she vigorously objected both by words and actions although it is fair to say that that activity is not itself the subject of any charge. However, notwithstanding her protestations, what you then did was to take hold of [name redacted]'s wrists above her head with your left hand effectively pinning her down before place your other right hand insider her pyjama bottoms. You then inserted your fingers into her vagina. At no point did [name redacted] consent to being digitally penetrated in that way nor did she give you any indication to that effect. On the contrary she made it unequivocally clear to you that she was not interested in any form of penetrative sexual activity on that occasion.

Your version of events, namely was that, although you had no specific memory of any sexual encounter on 9th May, any sexual activity between the two of you was or must have been with the free and unequivocal consent of you both and that [name redacted] had given a dishonest account in all material effects either out of jealousy or anger on her part. Well, that version was roundly and unequivocally rejected by the Board.

What you did that evening was unconscionable. You took advantage of someone who had every right to feel safe and secure in your presence and in the company of someone whom she ought to have been able to trust implicitly. Your actions that night have had and will continue no doubt to have for some time profound consequences for her. We have had read to us extracts from her victim impact statement and the impact upon [name redacted] cannot be overstated. It has left her in a constant state of fear and anxiety and on edge with regard to the possibility of encountering you following her

return. Although we accept from Mr Gilbert that the unit had put in place preventative measures. Nevertheless, this incident knocked her self-esteem and her self-confidence; she suffered sleep disturbance and it has damaged her trust in men particularly and in people more generally. And it has also contributed towards her decision to leave or transfer out of the British Army. The Board sincerely hopes that the conclusion of these proceedings will assist [name redacted] in putting this matter behind her and focusing on what we hope is a promising future for her.

The Judge Advocate General's guidelines, or guidance, makes clear that for an offence of this type and severity it is to the Sentencing Council guidelines that we must turn. Before doing so, however, I am going to quote from that guidance in order to highlight why it is that offences of this nature are considered so serious in the Service context, and I quote as follows:

“Service personnel have little choice where and with whom they serve. They may live in close confines, and they may share facilities including ablutions and social spaces. They work, eat, and socialise together. Sexual offending undermines the bond of trust which must exist between those who serve together, it affects morale and ultimately operational effectiveness. Dismissal will be appropriate in all but the most exceptional case.”

Therefore, turning to the Sentencing Council guidelines for assault by penetration and having considered with care the relevant factors, we take the view that the offence falls squarely within category 3B. Category B culpability because there are no specific factors present that would justify placement in any higher category. This was opportunistic as opposed to premeditated, and it does not qualify as an abuse of trust case. Category 3 harm because the victim, [name redacted], was not particularly vulnerable. Although the Board acknowledges the undoubted psychological impact upon her, this could not properly or fairly be described as severe within the context of this type of offence. That provides for a start point of two years with a range of a high-level community order to four years' custody.

We considered whether there are any Service factors that might justify a placement in any higher category and we concluded that there are none. The fact that the offence took place whilst deployed on Operation Cabrit and the other matters alluded to by Mr Coombes in his sentencing note do not in our view lead to an upwards adjustment of that start point. There are no statutory aggravating factors present.

On the other hand, in mitigation, you have no previous or any relevant convictions and you are of positively good character. We have taken into account the references that have been submitted on

your behalf including by your chain of command, especially that of Major Dodson. They all speak very highly and positively of you. We have also had read to us a letter from your current partner and we have read with interest the supportive letter that has been submitted on your behalf authored by your parents and your sister. And those factors have served to direct the pendulum in the opposite direction. Furthermore, we have taken into account everything that has been very eloquently expressed on your behalf by Mr Gilbert. You have much to thank him for. And we note, amongst many other things that you continue to make valid contributions to your Service in the intervening period between charge and trial. We note that you have secured employment going forward.

We have read a pre-sentence report. It is an extremely detailed report, we are very grateful to the author of that report, Miss Rhodes, and we have read the same with considerable care. You are assessed as being a medium risk of committing a further contact offence and of serious risk of harm to the actual known victim. That said we note that it is highly unlikely that you will ever cross paths again with [name redacted] and it is not a case where a restraining order is being sought. We do not consider that the dangerousness provisions are triggered in this case.

Corporal Wilcox, would you just replace headdress and stand please? Thank you.

This type of behaviour is wholly unacceptable. Women are rightly at the front and centre of the modern Armed Forces and if our Armed Services are to remain operationally effective, they must be inclusive and all people, whatever their sex and whether or not they are in a relationship, must be able to socialise or share accommodation in the safe and secure knowledge that they will not be sexually assaulted but instead be afforded the respect that they properly deserve. Your behaviour was inexcusable, it represents a betrayal of the values and standards of the Armed Forces, and it goes without saying that anyone in the civilian world convicted of such an offence would inevitably be dismissed for gross misconduct. The Board has decided that your actions that evening were and are incompatible with service within His Majesty's Armed Forces and that you should be dismissed.

Having considered the matter with care we have also concluded that the custody threshold has been passed, that is a matter realistically conceded by your counsel, and that this offence is clearly so serious that a period of custody is unavoidable. The least possible sentence that we can impose having regard to the seriousness of this offence is one of 21 months' imprisonment. We took as our start point 24 months and we then discounted it to 21 months to reflect the mitigation in your case and we cannot of course give you any credit for a guilty plea. That is significantly less than that which we had in mind. You have much to thank Mr Gilbert for.

Corporal Wilcox, this case presented us with a dilemma; do we sentence you to an immediate term of imprisonment? That would clearly be merited on these facts, it would satisfy the principles of punishment and deterrence, it is what ordinary members of the public and the victim in this case would expect and if we were to do so you could not reasonably complain. It is a very serious offence and people justifiably expect deterrent sentences to be passed to reflect the severity with which society views them. That said, and having given the matter detailed consideration and having applied the relevant guidance on the imposition of custodial sentences, the Board has decided, with considerable caution, to suspend the sentence in your case. In the judgement of the Board a relatively short period of immediate imprisonment, whilst deserved, would not be a proportionate sanction in these particular circumstances. There is significant mitigation in your case; you pose no risk to the public and, notwithstanding the absence of any remorse, your prospects of rehabilitation are good. Overall, the Board considers that society would be better served and protected by you providing unpaid work in the community and your attendance on the Maps for change programme as part of the rehabilitation activity requirement days. So, there will therefore be a suspended sentence order of two years' duration. The custodial term is one of 21 months that is suspended for two years. So, if in the next two years you commit any offence whether or not it is the same type for which you are being sentenced today you will be brought back to court, and it is likely that this sentence will be brought into operation either in full or in part. Do you understand that?

DEFENDANT: Yes, your Honour.

JUDGE ADVOCATE: Now, as a condition of this suspended sentence you will also be required to undertake 240 hours of unpaid work on behalf of the community and attend 20 rehabilitation activity requirement days all of which must be completed within the next 24 months. What that means, Corporal Wilcox, is that you must meet your supervisor when and where you are told, you must co-operate fully with any instructions that your supervisor gives you and if you fail to perform the work, fail to do it properly, fail to co-operate with the rehabilitation activity requirement then you will be in breach of the order. And if you are in breach of the order, you are brought back to court, and you can be given further requirements or re-sentenced or fined for the offence and that could well mean custody. Do you understand that as well?

DEFENDANT: Yes, your Honour.

JUDGE ADVOCATE: We have determined that there should be no order for Service compensation in this case. We recognise the undoubted impact upon the victim, but it is extremely difficult to monetarise that impact and we are concerned that a payment of money to her from the defendant

may trigger or have an adverse psychological impact upon her and possibly therefore hold back her recovery. But we sincerely hope that the culmination of these proceedings, combined with the knowledge that the defendant has been dismissed and received a suspended sentence of imprisonment, will be of some comfort to her going forward. And I also must certify that you have been convicted of a sexual offence so you must, for period of ten years from the date of your conviction, keep the police informed at all times of your personal particulars, the address at which you are living and any alteration in the name you are using. You will be given full details of those requirements on a form at the end of this hearing. If you breach the notification requirements again, you are liable to be imprisoned for up to five years. Do you understand that?

DEFENDANT: Yes, your Honour.

JUDGE ADVOCATE. Okay, Mr Coombes, before I invite the President to formally pass sentence are there any matters outstanding from the Crown's perspective? Well, I lip read that as a no.

MR COOMBES: Nothing else, thank you. Sorry, your Honour.

JUDGE ADVOCATE: Mr Gilbert?

MR GILBERT: No thank you, your Honour.

JUDGE ADVOCATE: Mr President, would you please pass sentence?

SENTENCE

PRESIDENT OF THE BOARD: Corporal Wilcox, you are sentenced to 21 months' imprisonment suspended for two years and dismissed from the Service.