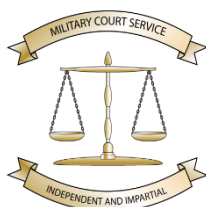


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IN THE COURT MARTIAL

held at

MILITARY COURT CENTRE, CATTERICK

on the

28th May 2025

in the case of

REX

V

24056625 Ex-Ranger Paul McCANN

Formerly of 2nd Battalion, The Royal Irish Regiment

JUDGE ADVOCATE

Judge Mitchell

Assistant Judge Advocate General

SENTENCING REMARKS

JUDGE ADVOCATE: Paul McCann, you were born on 28th August 1962, and you are now 63 years old. You have a conviction for theft when you were a youth in 1976 and a caution for theft in 2015 but otherwise have no matters recorded against you on PNC, at least, until you were convicted last month after trial by Court Martial for two offences of indecent assault and two offences of rape, all committed when you were 19 years old against a young girl called [name redacted] who was between 7 and 8 years old at that time.

I did observe in the course of the trial there may have been one or two matters recorded by way of discipline when you were a soldier, but they count for nothing in the history of this case. You served in the 2nd Battalion of the Royal Irish Rangers between May 1979 and July 1983. You were serving in West Berlin in 1982 when you babysat for [name redacted] at the request of her father, your former platoon sergeant [name redacted].

On two occasions between January and December 1982, amongst other indignities you penetrated [name redacted] vagina with your fingers and her mouth with your penis before finally vaginally raping her. You told her not to tell her parents about what had happened.

On the evidence I have heard these were not the only occasions on which you assaulted [name redacted]. I am sure that in the year before when [name redacted] family were based in Tidworth you digitally penetrated her vagina and also penetrated her mouth with your penis. Those matters were heard in this case at trial as supporting evidence for the prosecution but not charged because, for legal reasons, they are beyond the jurisdiction of the Court Martial.

I leave open the possibility that those matters may form the subject matter of later proceedings. To be clear I do not sentence you for what I am sure you did in Tidworth, but I find as a fact that the offences committed in Berlin were committed in the context of earlier sexual grooming and that is an aggravating feature of the offences that fall for sentence.

I specifically do not, in any way, seek to tie the hands of any future court or prosecuting authority. I have considered the testimonials served on your behalf. The pre-sentence report and the submissions made ably by Ms Edington who, again I repeat, could have done no more for you. I have considered the relevant analogous and overarching sentencing guidelines and all the relevant decisions of the Court of Criminal Appeal.

I note that you were 19 at the time you committed these offences and further note that as per the observations of the Court of Appeal at paragraph 33 of the decision in *Ahmed* that is reported at 2023 EWCA Crim 281, nothing in that Judgment affects the approach set out in the other decisions of that Court in *H(J) v Forbes* in relation to the sentencing of adult offenders for crimes committed after they had attained the age of 18.

I therefore approach sentence in a manner consistent with that set out in the sentencing guideline relating to historical sexual offences. You must therefore be sentenced in accordance with the sentencing regime applicable today. That is the date of sentence. The sentence is limited to the maximum sentences available at the date of the commission of the offences. The courts should

sentence by measured reference to any applicable sentencing guidelines for equivalent offences under the Sexual Offences Act 2003.

In this case that means principally the sentencing guideline relating to the rape of a child under 13. Where, as here, the offences of both rape and indecent assault, if committed on the day on which you were convicted would have constituted offences contrary to Sections 5 and 6 of the Sexual Offences Act 2003, you are liable to sentence as an offender of particular concern, if you are not sentenced as a dangerous offender or sentenced to life imprisonment. Can I make it clear that you will not be sentenced as a dangerous offender or sentenced to life imprisonment.

DEFENDANT: Thank you, your Honour.

JUDGE ADVOCATE: The seriousness of the offence assessed by your culpability, that is your blameworthiness and the harm that you caused or intended are my main considerations. I should not seek to establish the likely sentence had you been convicted shortly after the date of the offences. When assessing blameworthiness, I should have regard to the relevant culpability factors set out in the guidelines.

I have to assess carefully the harm done based on the facts available to me having regard to relevant harm factors set out in any applicable guideline. Consideration of the circumstances which brought the offence to light are important, particularly when I am listening to the victim personal statement in this case and the life that [name redacted] has, to no small extent, had to endure to this point, from which I sincerely hope she will now be able to move on.

I have to consider the relevance of the passage of time carefully, as it has the potential to aggravate or mitigate the seriousness of the offence. To be fair, there is no evidence that in the meantime you have continued to commit sexual offences or continued to prevent [name redacted] reporting the offence. Where, as here, there is an absence of further offending over a long period of time, that might amount to a mitigating factor. You have little recorded against you, and your family records that you have done much for them but as the guidelines note the more serious the offence, the less the weight which should normally be attributed to this factor.

I cannot accept that these offences arose due to immaturity because you must have known full well how very wrong your actions were. Not least because you would have known at the time how very seriously your fellow soldiers, your commanding officers and indeed [name redacted] father, your platoon sergeant, would have taken it if they had found out what you were doing when you were doing it.

That is why you kept silent. Even now you do not admit those offences. You were young when you committed these offences, but you were not so young. Some allowance has to be made for that, fair allowance has to be made for it but remembering nonetheless that you were an adult and a soldier on the East/West frontier in the British Army at the height of the Cold War.

For the sake of totality, I take all the offences together and will pass a series of concurrent sentences to reflect your overall offending. Taking the rape offences as the lead offences, and analogous to the later offences of rape of a child under 13, I have no doubt that this is a case of A, that is high, culpability or blameworthiness. You raped [name redacted] twice when she was a child. For the reasons I have already mentioned all the offences to be sentenced resulted from earlier grooming behaviour. The context was earlier sexual offending in effect.

Taken in isolation each instance of rape would, in my judgement, be a category 3 harm case. Bearing in mind the decision of the Court of Appeal in *KC 2019 EWCA Crim 1632* and *PS 2019 EWCA Crim 2286*, for an offence that by definition could only be committed against a child under 13, a complainant aged either 7 or 8 cannot alas be said to be particularly vulnerable to extreme youth. However, this is a category 2 harm case because the harm caused by each instance of rape, aggravates the other and the case is aggravated overall by both the indecent assaults committed at the same time and the earlier sexual grooming. It is also aggravated by what I have heard from the victim personal statement. I have no doubt as to the grievous harm that [name redacted] has suffered in her life as a result of what you did.

Put very simply what would be an A3 case if committed on one occasion becomes an A2 case when taken as a whole. The starting point on sentence is therefore 13 years with a range of 11 to 17 years. On the facts of this case, I am not sure that location and timing aggravate what are in any event terrible reprehensible offences but it is fair to say that you did take some steps to prevent [name redacted] reporting these offences, and those steps worked to your advantage for a long time.

The following are mitigating factors. Your lack of recent or relevant conviction, your positive character, subject to the comments I have already made. Most importantly your age at the time you committed these offences. This is not a case where I believe there is a need to pass a life sentence or make a statutory finding of dangerousness and pass an extended sentence. There is no evidence that you have committed any similar offence or behaviour for many years.

The length of the determinate sentence is condign punishment for what you did overall. I am however required by law to treat you as an offender of particular concern. Overall, the appropriate total

sentence after trial in this case, is marked by that indicated at the bottom of the A2 range. That is a custodial period of 11 years imprisonment to which I add a further year's licence. Experience tells me, that that is the appropriate sentence for a 19-year-old male who grooms a child then rapes her twice in her own home.

The sentence will therefore be expressed as follows and you are subject to the following concurrent sentences:

On Charge 1, the offence of indecent assault the sentence will be 5 years imprisonment comprising a custodial period of 4 years with a further period of 1 year's licence.

On Charge 2 for the offence of rape the sentence is 12 years' imprisonment comprising a custodial period of 11 years with a further period of 1 year's licence.

On Charge 3 for the offence of indecent assault the sentence is 5 years' imprisonment comprising a custodial period of 4 years with a further period of 1 year's licence.

On Charge 4, for the offence of rape the sentence is 12 years' imprisonment comprising a custodial period of 11 years with a further 1 year's licence.

That in total is a sentence of 12 years made up of 11 years' worth of imprisonment, to which 1 year's further licence will be overall added.

The amount of time that you serve in custody, will be subject to the prevailing legislation as interpreted by the Prison Authorities. As things stand, I believe and understand that you will serve two thirds of that custodial period subject to a reduction to reflect your time on remand to date, post-conviction. It may or may not be the case that you are subject to parole, I will leave that simply for the prison authorities. Otherwise, you will subject to notification and registration as a sex offender, and you will be subject to that notification and registration for the rest of your life.