

ROYAL COURT
(Samedi Division)

2nd June, 1995

100.

Before: The Deputy Bailiff, and Jurats
Coutanche and Vibert.

The Attorney General

- v -

A

Sentencing by the Inferior Number, following guilty pleas on 7th April, 1995, to:

1 count of indecent assault.
1 count of procuring the commission of acts of gross indecency.

AGE: 44.

DETAILS OF OFFENCE:

Between January 1984 and December 1986 the Defendant indecently assaulted his step-daughter, who was living with him following the break-up of the Defendant's marriage. The indecent assaults involved fondling the girl's breasts and vagina and performing oral sex upon her. The relationship developed to include persuading the girl to perform oral sex upon the Defendant (Count 2). Sexual intercourse took place on a regular basis although this was not the subject of a charge as it was time barred.

DETAILS OF MITIGATION:

The Defendant found it difficult to come to terms with the break-up of his marriage and to some extent used his step-daughter as a substitute "wife". Claimed that this was a loving relationship. No violence involved. No evidence of pre-disposition to paedophilia. Guilty plea. Remorse.

PREVIOUS CONVICTIONS: Several but none relevant.

CONCLUSIONS:

Count 1 : 2 years' imprisonment.
Count 2 : 2½ years' imprisonment, concurrent.

SENTENCE: Conclusions granted.

REMARKS:

Court felt that it would be failing in its public duty if it did not impose a custodial sanction. Noted dicta in English decision of R. v. Renouf to the effect that each case must depend upon its own facts. Regard had to dicta in AG -v- Maguire to effect that procuring children to commit oral sex is particularly revolting.

A.R. Binnington, Esq., Crown Advocate.
Advocate Mrs. S.A. Pearmain for the accused.

JUDGMENT

THE DEPUTY BAILIFF: The offences which we have heard described in this Court can do nothing but inspire revulsion in those who have heard them. The corruption of innocence is bad enough; the corruption of innocence by a father of his stepdaughter of 12 passes belief and understanding.

We do not wish to repeat the details of the acts described; suffice it to say, they include acts of oral sex. It must also be noted that, clearly, incest took place, but that offence being statutory, is time-barred and forms, of course, only part of the surrounding background.

The effect on the child, now grown into adulthood and married, cannot be underestimated. She is apparently still coming to terms with what has happened, and will, it appears, have to be counselled for many years to come.

We are aware that in the case of Renouf (1988) 10 Cr.App.R.(S.) 157 CA, French J, in the Court of Appeal of England stated that "*perhaps the answer is that each case must depend upon its own facts and the facts are infinitely various and protean in form*".

We do not need to repeat the comments on fellatio made in A.G. -v- Bouhaire (17th July, 1990) Jersey Unreported; (1990) JLR N.21; nor indeed the other cases that were cited to us and which we have considered most carefully. We would, however, repeat the words of the Deputy Bailiff in A.G. -v- Maguire (26th September, 1991) Jersey Unreported; (1991) JLR N.13:

"Procuring children to commit oral sex is particularly revolting and cannot be regarded as part and parcel of an indecent assault, whatever happens in that respect in England."

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A case such as this presents any court with formidable problems. We have a man who led an unblemished life while married, and who was, at one time, happily married and a churchgoer. He is 44. His marriage broke down, apparently through no fault of his; he began drinking to excess and his young stepdaughter, unwillingly, took on the rôle of his wife. That is particularly tragic because it was the breakdown of the marriage that later led to the stepdaughter approaching the Children's Office to ask if she could live with her stepfather. We have a letter from his employer which speaks highly of his work record; he has apparently established a relationship with a lady who is in Court today and is prepared to support him.

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All this we have carefully considered. We would, however, be failing in our duty to society if we did not mark our disapproval of these quite awful crimes, particularly where there is evidence that the girl has suffered psychologically. A prison sentence is inevitable.

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Mrs. Pearmain has, through her eloquence, probably saved A from enduring a longer sentence than that recommended by the Crown.

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On count 1, A, you are sentenced to 2 years' imprisonment; on count 2, you are sentenced to 2½ years' imprisonment, concurrent.

Authorities

Renouf (1988) 10 Cr.App.R.(S.) 157 C.A.

A.G. -v- Bouhaire (17th July, 1990) Jersey Unreported; (1990) JLR N.21.

A.G. -v- Maguire (26th September, 1991) Jersey Unreported; (1991) JLR N.13.

Whelan: "Aspects of Sentencing in the Superior Courts of Jersey":
p.p.96-102.

A.G. -v- Mutter (22nd June, 1987) Jersey Unreported.