

IN THE COUNTY COURT OF VICTORIA
AT MELBOURNE
CRIMINAL DIVISION

Revised
Not Restricted
Suitable for Publication

Case No. CR-20-00024

DIRECTOR OF PUBLIC PROSECUTIONS

v

GERALD RIDSDALE

JUDGE: Mullaly
WHERE HELD: Melbourne
DATE OF HEARING: 27 April 2020
DATE OF SENTENCE: 14 May 2020
CASE MAY BE CITED AS: DPP v Ridsdale
MEDIUM NEUTRAL CITATION: [2020] VCC 597

REASONS FOR SENTENCE

Subject:
Catchwords:
Legislation Cited:
Cases Cited:
Sentence:

<u>APPEARANCES:</u>	<u>Counsel</u>	<u>Solicitors</u>
For the DPP	Mr Andrew Moore	
For the Accused	Mr Tim Marsh	

HIS HONOUR:

1 Gerald Ridsdale you have pleaded guilty to 14 sexual offences perpetrated on four young male victims in the years spanning 1970 to 1979. This brings the number of known sexual offences committed by you in the years from 1961 to 1988 to 179 and the known victims to 69 or thereabouts.¹

2 Before outlining what, you did to these 4 victims or discussing in general terms your unrelenting history of sexually abusing children, it is necessary to remember and restate just what this dreadful offending involves. The fact that children have been sexually abused in an institutional setting and otherwise is now more well known by our whole community than in the past. However, as we have become more aware of what has gone on in the past we need to be vigilant especially those in the courts that we are not becoming immuned to the horror of what has been done to each victim or the dreadful impact on them and their families. The Final Report of the Royal Commission into Institutional Responses to Child Abuse commenced with these compelling words.

The sexual abuse of a child is a terrible crime. It is the greatest of personal violations. It is perpetrated against the most vulnerable in our community. It is a fundamental breach of the trust that children are entitled to place in adults. It is one of the most traumatic and potentially damaging experiences and can have lifelong adverse consequences².

3 The Courts, including in the sentencing remarks of judges sentencing you in the past Mr Ridsdale, have for decades firmly declared this type of offending as grave and serious criminality.

4 In a recent restatement the Court of Appeal described sexual abuse of a children as

“inherently evil and depraved. It violates the most basic norms of civilised

¹ The number of victims has been calculated by reference to the sentencing remarks of Judge Lawson 2017 VCC 1242 [18], though it may be that one victim or more was the subject of a count or charge on indictments before more than one County Court Judge.

² The Final Report of the Royal Commission into Institutional Responses to Child Abuse Executive Summary p 5

behaviour and strikes at the heart of the value which our society places on the lives and wellbeing of each of its young persons”³.

5 The facts and circumstances of the crimes you committed against the 4 victims were set out by the prosecution in the Summary of the Prosecution Opening for the plea. You accept the accuracy and truth of the facts and circumstances in that document.

6 You were born on 20 May 1934. In 1961, at age 27, you were ordained a Catholic Priest. Your first parish and your first place of sexual offending was in Ballarat. You were moved from there to Mildura, Swan Hill and then on to Warrnambool in 1970 as the assistant priest at St Joseph’s church.

7 It was in Warrnambool that you sexually abused the first victim on this indictment from September 1970 to December 1974. The victim was young, between the ages of 8 to 12. As was your way, you befriended the victim’s family, devout Catholics who went out of their way to be generous and friendly with you as their local priest. You visited their home frequently for meals. On multiple occasions you put the victim on your lap and then put your hands inside the victim’s pyjamas fondling his penis and genitals. This conduct was charged as an indecent assault on a male person, charge 1. It is a representative charge encompassing approximately 25 -30 occasions.

8 On another occasion when the victim was looking to you for comfort as his parents were fighting, you cruelly exploited the situation when he came to you for a hug, by fondly his buttocks. This happened again and this charge of an indecent assault of a male person, charge 2, is a representative charge.

9 Just after Christmas 1974, you took the victim for a short holiday to Apollo Bay. There was another young boy who also went on this trip. You gave the victim 3-4 cans of beer notwithstanding he was just 12 years old. He fell to sleep in a bed and woke to you fondling his penis and genitals and pushing your erect penis against his anus. This was charged as an indecent assault of

³ Fichtner v The Queen [2019] VSCA 297 (12 December 2019) Maxwell P and Kaye JA

- a male person, charge 3.
- 10 The next night you again gave the boy beer, more this time. He remembers getting quite drunk. The next thing he remembers is waking up in bed naked with you penetrating his anus. You continued to do that dreadful act, causing intense pain to the victim, until you ejaculated. You then just got up and left him, bleeding from his anus and distraught. This was charged as the crime of buggery, charge 4.
- 11 The second victim was about 7 years old when you sexually abused him over a three-month period in 1975. You had been moved to the parish at Inglewood. Again, you exploited the fact that the victim's family were active in the Catholic Church. This gave you unfettered and trusting access to the victim. You would put him on your lap as you sat in the driver's seat of your parked car. There you would fondle the victim's penis and your own. You moved the victim's pants to his knees, and he could feel your erect penis against his buttocks. All this was committed under the pretence of some religious education as you had him read or you read the bible to the victim in the car at the time.
- 12 On another occasion you took the opportunity when the victim had misbehaved to administer corporeal punishment by strapping his hand and buttocks. The victim commenced to cry, and you took the opportunity under the cover of consoling him to pat his buttocks and then fondle his penis for 5-10 minutes. You further exploited the situation by telling the victim he couldn't tell anyone what you had done to him as he was the one who had been naughty in the first place and had to be punished.
- 13 All this conduct was charged as an indecent assault on a male person as a course of conduct, charge 5. I will refer to the sentencing implications of this course of conduct offence later.
- 14 The third and fourth victims were brothers. The third victim was between 15-

- 16 at the time of the offending. The fourth victim was younger between 12 and 14. They lived with their family in a small town in the Wimmera and attended the church at Edenhope. You were moved to that parish in 1976. You befriended the family and would attend for meals. While at the house on occasions you would administer confession to members of the family. Conveniently for you confession was religious sacrament conducted in private and you heard the third victim's confession in his parent's bedroom. With utter hypocrisy, as you heard his confession, you leant over and took his penis out of his pants masturbating him to ejaculation. This was charged as an indecent assault of a male person, charge 6.
- 15 With the permission of their parents you took the third victim and his younger brother out at night spotlight shooting. When the younger brother got out of the car to fetch a shot rabbit, you would take the opportunity to masturbate the third victim to ejaculation. This happened on three occasions and the offence is charged as an indecent assault of a male person as a representative charge, charge 7.
- 16 Often after being out at night shooting, the two brothers would stay overnight at the church presbytery where you lived.
- 17 On one evening the third victim awoke to find you masturbating his penis. He pulled away and you then forcibly got him onto his hands and knees and then penetrated his anus with your penis until you ejaculated. He struggled against you, but you used your considerable size to hold him where he was. Then as he lay there in pain, you said to him "don't you tell anyone anything, they won't believe you over a priest" It was a threatening assertion that you knew to be or likely be true at that time. This was charge 9, the crime of buggery, which in this case involved violence and being without consent
- 18 On two further occasions when the brothers stayed over, you again anally penetrated the third victim in the bed in which he was sleeping. These anal

penetrations were charged as buggery involving violence and lack of consent, being charges 10 and 11.

19 The fourth victim was separately indecently assaulted by you rubbing his penis over his shorts on an occasion when you and the brothers were out shooting at night. This was charge 12.

20 On an occasion that the younger brother, victim 4, stayed at the Edenhope presbytery, he was showering when you got into the shower with him. You touched his penis and tried to get him to touch yours, but he refused. You then bent down and sucked his penis with your mouth until he ejaculated. This was charged as an indecent assault with a male person, charge 13. Later that same night you made him sleep in your bed where you masturbated him to ejaculation. Again, you tried to get him to masturbate you, but he refuses. This was charged as an indecent assault with a male person, charge 14

21 For the each of the ten offences of an indecent act with a male person the maximum terms fixed by Parliament five years imprisonment. For the four crimes of buggery, in the circumstances in which these crimes were committed, that is for the first victim he was under 14 and for the third victim the penetrations involved violence and lack of consent, the maximum term was 20 years imprisonment.

22 As has been noted sexual crimes of this kind have dreadful and often lifelong impact on the victims. In this case that has to a significant degree been borne out.

23 Victim one in his victim impact statement wrote

*The emotional, physical, financial and social impacts have individually and **collectively changed my life forever.***

24 He speaks of your crimes deeply effecting his mental health resulting in him turning to and becoming dependent on alcohol. Consequently, important relationships were impaired leading to divorce. He spoke of losing his job in

his fifties and how he is now living in very much reduced circumstances with an uncertain future. He is socially isolated and cannot attend important family events. He concluded with great sadness:

"I am single, alone, broke, drunk, depressed, embarrassed, forgetful unemployed, wondering how I will get through tomorrow. Things would have been different if this individual was not ever part of my life."

25 Victim two wrote of the adverse effect of your crimes had on his ability to learn to read. He said:

"I believe that from 7 years of age to now, I never learned to read and write and that's because he would read to me when I'd sit on his lap so I believe this contributed to the fact that I was never able to learn."

26 He spoke of becoming emotional when your image comes onto the television. He believes he has been over-protective of his own children, which they do not understand and see him as too strict. He concludes with a positive element of generosity hoping what he has done by reporting what happened to him might assist others to do likewise. He wrote:

"Ridsdale took advantage of his power over us and it makes me feel sick and ashamed but it's not my shame to carry and I know that. But some days it's very hard not to feel the blame and the shame. I really hope that more people have the courage to report so they can find some sort of peace and if I have contributed to this happening, I would take some happiness from that."

27 The third victim wrote of his efforts to obtain and sustain a normal adult life.

"I have managed to put these incidents to the back of my mind and not think about it so much, which has allowed me to enjoy a relatively normal life. This didn't come easy; it took many many years for the anger and constant recollections to subside. However, during the early days and for a long time afterwards, as I was so young, I found it difficult to put behind me, which had an adverse effect on relationships at the time. At the time I felt hurt, angry and frustrated. My innocence was taken from me by someone who I was meant to be able to trust. I had trouble sleeping. I am still awoken frequently during the night with flashbacks of what happened to me. These are feelings that I have learnt to deal with and will continue to deal with in the future as they won't ever leave me."

28 He spoke of the adverse effect of your crimes on his schooling and social life. He did not have trust in figures of authority, friendships were not easy for him. He developed intolerance and anxiety that restricted his involvement in things

- such as sport.
- 29 The fourth victim wrote that the biggest impact on him as he bottled up what had happened for years was in his relationships. He shut people out, family included. He feels he lacks self-confidence and could not concentrate at school or later education. His sleep is often disturbed by intrusive thoughts and anxieties.
- 30 The third and fourth victims' elderly parents wrote in a joint Victim Impact Statement that the effect on them of learning of the sexual abuse of their two sons by you was shocking and sickening. They say that they trusted their beautiful children to you without question, but now they, wrongly, are made to feel guilty for not being more vigilant. They still struggle daily with a feeling of guilt. They are not to blame, only you are. They should not at their age be made to feel and carry these burdens. They speak of the struggle they have with their faith and how in that respect they were shocked "*to the very core of our hearts*". They speak of how the innocence of childhood was deprived to their boys by your "*filthy paedophilic behaviour*".
- 31 These are heartfelt statements from all the victims about the wide effect on them that came from your selfish, criminal behaviour. In respect of the sentence I will shortly announce I have, in a measured way, taken into account, as I must, the impact of your crimes on the victims.
- 32 Also, in fixing a just sentence, I must, pursuant to the *Sentencing Act*, have regard to the nature and gravity of your crimes, your moral culpability for them and any aggravating or mitigating factors concerning you or other relevant circumstances.
- 33 As noted at the beginning of these reasons sexual abuse of children involves grave and terrible criminality. What makes your offending serious examples of these crimes were the following matters.

34 First, the very young age of the victims, especially victims 1, 2 and 4. They were vulnerable children and you simply used them and violated them for your perverse sexual gratification.

35 Secondly, you were in a position of great trust and you comprehensively breached that trust. I need to briefly elaborate. You were trusted by the victims as young children to show basic care for them and not cause them lifelong harm. You were especially trusted by their parents and by the broader community that in dealing with the children their case would be foremost in your thinking. You occupied a special, and to use your counsels' words, venerated position as a catholic priest in these regional towns and rural communities. Your access to these children was taken as part of your pastoral responsibilities and flowed from you establishing friendships with the parents as part of your congregation. You were trusted to deal with the victims in conformity with the tenants of your chosen religion. That is, at appropriate times impart religious knowledge and sacraments and more generally to provide care and be a model of moral integrity. By your sexual abuse, at times when the child was seeking comfort, reveals your utter hypocrisy. In respect of victim 2 you used the cover of reading from the Bible to perpetrate your crimes on him. With respect to victim 3 you exploited the opportunity of hearing his confession to masturbate him. These features add a bewildering aspect to your offending and your breach of trust. The breach of trust effects the victims, their parents and the wider community, both adherents to Catholicism and otherwise. It is corrosive causing people to have less trust even of decent members of religious communities. It tarnishes us all as what is revealed is that the important societal values of protecting the young and vulnerable have been so blithely attacked.

36 Thirdly, the anal penetrations of the victims 1 and 3 were forceful, excruciating and unrelenting notwithstanding the obvious pain you were causing. It was degrading and abhorrent behaviour. The fact you plied victim 1 with alcohol at

his young age of 12 before anal penetrating him adds to the gravity. Save for charge 13 which was an oral penetration, charged as it was at the time an indecent assault on a male person, the other charges of touching the genitals and masturbating the victims are still very serious sexual offences. As the Court of Appeal said in respect of offending by a primary school teacher who masturbated children often as they sat on his lap reading;

*it is a grave thing to assault a young boy by exposing his penis and masturbating him...While not penetrative, each such act is a serious invasion of the victim's bodily integrity and autonomy*⁴.

37 Fourthly, in respect of victim 3 you added to his despair by saying in effect it would not matter if he revealed what you were doing to other adults as who would believe him over a priest. This sense of impunity also adds to your very high moral culpability.

38 Fifthly, your offending was protracted, though victim 2 was spared by only suffering abuse for 3 months compared to years for others. Also, in terms of the length of your offending it seems it only came to an end when you were moved on to a new parish, which, as has been revealed only facilitated you exploiting a new group of children.

39 Sixthly, and in respect of charges 1, 2 and 7 they are representative of many examples of like offending. In that regard I am guided in sentencing you for these representative charges by the reasoning of the Court of Appeal in the decisions of *The Queen v SBL*⁵, and *R v CJK*⁶

40 Finally, charge 5 relating to victim 2 is charged as a course of conduct offence. Thus, I must, and I have, followed the provisions of s5(2F) of the *Sentencing Act*. Decisions regarding course of conduct charges have established that I must make some general, not precise, assessment of the number or frequency of the incidents within the course of conduct. That matter

⁴ *Morris v The Queen* [2016] VSCA 331 [60] per Maxwell P and Cavanaugh AJA

⁵ [1998] VSCA 144

⁶ [2009] VSCA 58 at [42]- [66] and the cases therein cited

is more straight forward in this case as it is agreed that it was around 4 occasions in the car and the incident after punishing the victim all within a 3-month period.

41 As to your moral culpability for these offences, it is plainly very high indeed. You knew what you were doing was profoundly wrong and harmful, but you kept doing these things to these children over and over. It seems you knew no boundaries or had any sense of restraint. I, like Chief Judge Rozenes, adopt the very insightful comments made by Judge White when sentencing you in 2006. He said:

“Having regard to your position of trust, the attitude of Catholic families at the time placing priests on a pedestal, the power you were able to exercise over those families and their children and your vocation as a priest, there is no doubt your conduct plummets to the depths of evil hypocrisy. Your conduct has given rise to disastrous, catastrophic and at times tragic results. Your victims their families, your family, practising Catholics and the church have all suffered. The Catholic Church cannot escape criticism in view of its lack of action on complaints being made as to your conduct, the constant moving of you from parish to parish providing you with more opportunity for your predatory conduct and its failures to show adequate compassion for a number of your victims”

42 All that said, I make clear you are not to be personally punished for any failings of the Catholic church or its hierarchy for the way they moved you from one parish to another or how they dealt with victims. Also, you are not to be repunished for the crimes that other judges of this court have dealt with.

43 My sentencing of you for these 14 crimes committed against these 4 victims must properly encapsulate the community’s abhorrence of your crimes. Right minded members of our community are simply bewildered that a grown man would regularly masturbate children and anally penetrate them with force to the point of ejaculation. The sentencing purpose of denunciation must have practical expression in the form of punishment being years of imprisonment. A lengthy term of imprisonment is, to put it simply, your just desserts for the violation of and harmed caused to these four victims.

44 My sentence must also continue the efforts of the courts to send an

unambiguous message—that is, if you sexually abuse children you will face stern punishment in the form of years of imprisonment. Deterrence to others is a very weighty matter in this case.

45 As required by the *Sentencing Act*, and the serious offender provisions, which I will refer to in more detail shortly, I must consider protection of the community as the primary sentencing purpose. In your case this is achieved by years of imprisonment incapacitating you and rendering it impossible for you to offend again. In all the circumstances of your age and, as I will discuss, your developed insight, you are not an ongoing danger to the community when you are released.

46 As to your personal circumstances I can be brief as it is not said, nor could it be that your general character provided any mitigation at all⁷. You were raised in Ballarat, the eldest of 8 children. Your mother died in 1995 at age 85 and your father died in 2009 at age 98. You commenced training to become a priest in 1954 at age 20. You were ordained a priest in 1961. On that matter, moving forward, in late May 2015, with refreshing insight you candidly said in effect in your evidence to the Royal Commission Into Institutional Responses to Child Sexual Abuse, that you now accept that someone with your issues, which I take to mean your sexual interest in children, should never have become or be allowed to become a priest and that *“there should have been a better screening process that was much more thorough, a psychological process that was much more thorough than anything that was conducted then”*⁸.

47 As to your psychological issues, you have been assessed over the years by the experienced, forensic psychologist Mr Ian Joblin. His report of 18 February 2014 was tendered on your plea, as it was at earlier sentencing hearings. His opinion was that you were undoubtedly a paedophile. However, in his view,

⁷ s.5AA *Sentencing Act*

⁸ Royal Commission Transcript page 8682.

over the years of your incarceration, you have developed insight into the harm you caused by your offending, something you told the Royal Commission you did not think about at the time⁹. You have completed the sex offenders programs available in custody. In terms of your current psychological profile, you are now insightful, remorseful and at your advanced age you do not present as a risk to the community.

48 Your remorse is also evidenced by your plea of guilty to these offences. Your early plea of guilty is a matter of significant mitigatory value. It relieved the victims of the added trauma of what would be now a much-delayed jury trial. It relieved the overburden criminal justice system of another lengthy historical sexual offences trial. Your sentence will be less because of the plea of guilty. Further there is separate mitigatory weight that attaches to the fact you have taken responsibility for these crimes and have developed remorse.

49 As noted, before you were first assigned to a parish in Ballarat in 1961, where your offending commenced. You were moved to ten different parishes in country Victoria from 1962 to 1988. You had stints in Elsternwick in Melbourne, and Sydney and Richmond in New South Wales. In 1989-90 you attended a religious facility in New Mexico in the United States to complete a course due to what was described at the time as your personal problems.

50 In 1993 you were sentenced by a Magistrate to 12 months imprisonment, 9 months of which were suspended, for committing 31 offences involving 8 victims from the Edenhope and Inglewood parishes. You were released from custody in August 1993.

51 In late 1993 you were laicised which means the Catholic Church removed you from the priesthood.

52 On the 6 August 1994 you pleaded guilty in the County Court sitting at Warrnambool to 46 offences involving 21 victims. You were remanded into

⁹ Ibid Transcript 8682

- custody and have remained in prison since that day, which is now 25 years 9 months and 8 days.
- 53 You were sentenced by Judge Dee on 14 October 1994 to a sentence of 18 years with a minimum non parole period of 15 years. Your appeal against this sentence was dismissed by the Court of Criminal Appeal on 4 April 1995.
- 54 Since then you have been further sentenced by three County Court judges. On 11 August 2006 Judge White dealt with you for 35 charges involving 10 victims. He imposed a sentence of 13 years imprisonment and fixed a new minimum term of 7 years commencing on 11 August 2006.
- 55 On 8 April 2014 before Chief Judge Rozenes you pleaded guilty to 30 offences involving 14 victims. He imposed a sentence of 8 years with a minimum of 5.
- 56 On 2 September 2017, you pleaded guilty before Judge Lawson to 23 charges involving 12 victims. Her Honour's sentence was 11 years with 6 years 4 months and 24 days cumulative on the sentence you were then serving, and Her Honour fixed a new non parole period of 8 years from 8 April 2014. With orders for concurrency and cumulation and the refixing of your minimum non parole period in accordance with the provisions of the *Sentencing Act*, the present position now is that your minimum non parole period expires and you are eligible for release on parole at the earliest on 8 April 2022, which is 27 years 8 months and 2 days from when you first went into custody. The head sentence expires and the latest date for your release is 1 September 2028, which is 34 years and 26 days from when you first went into custody.
- 57 You are now just days away from your 86th birthday. You will be 87 years and 10 months at your earliest release date and 94 years and 4 months when your current sentence fully expires.
- 58 You have medical conditions including high blood pressure and cholesterol,

asthma and arthritis. All are treated with standard medications. While in custody you have had surgery for a heart bypass and an aortic valve replacement. You have in more recent times had on going bowel problems and have had surgery. Your counsel, Mr Marsh, said that at the moment there were no particular or acute health problems or any frank cognitive decline or detectible dementing process and that, all in all, you present as what one might expect for an 86 year old elderly man. You need a walking frame but there is nothing about your health or your current circumstances that makes custody for you particularly onerous. However, as you continue to age and become more frail prison will be more onerous than it once was. However, as to the current circumstances Mr Marsh said that over the many years of incarceration you have become used to the routines and manage as best you can.

59 In his written and oral submissions, Mr Marsh comprehensively considered the relevance of your advanced age and health to the sentencing task. He referred to the guiding principles as set out by the Court of Appeal in the decision of *RLP*¹⁰. In all the circumstances of this case, given the tensions created by your advanced age and the lengthy sentences you are undergoing, those principles warrant full recitation here. The Court of Appeal set out the following sentencing considerations:

- 1. The age and health of an offender are relevant to the exercise of the sentencing discretion.*
- 2. Old age or ill health are not determinative of the quantum of sentence.*
- 3. Depending upon the circumstances, it may be appropriate to impose a minimum term which will have the effect that the offender may well spend the whole of his remaining life in custody.*
- 4. It is a weighty consideration that the offender is likely to spend the whole or a very substantial portion of the remainder of their life in custody.*
- 5. Other sentencing considerations may be required to surrender some ground to the need to exercise compassion to take account of the real prospect that the offender may not live to be released and that the*

¹⁰ *The Queen v RPL* [2009] VSCA 271 at [39]

offender's ill health will make his or her period of incarceration particularly onerous.

6. Just punishment, proportionality and general and specific deterrence remain primary sentencing considerations in the sentencing disposition notwithstanding the age and ill health of the offender.

7. Old age and ill health do not justify the imposition of an unacceptably inappropriate sentence.

60 Thus, I must when I consider the appropriate sentence keep well in mind that at your age my sentence may well mean that you are as a consequence more likely to die in custody. This is a weighty matter and I must consider whether some of the usual sentencing considerations that I have already referred to, such as general deterrence, may have to surrender somewhat. That said as is made plain in *RPL* and other cases involving elderly accused I cannot impose what is an inappropriate and inadequate sentence on account that it may mean that the elderly person dies in custody.

61 This matter of your age combined with the sentences you are currently undergoing were central to Mr Marsh primary submission that my sentence should not add to your head sentence nor should I refix a longer minimum term. In other words, my sentence should run concurrently with the sentence you are presently undergoing.

62 His submission was that a proper application of the principle of totality would result in a sentence that was in effect wholly concurrent. He contended that this was the just and appropriate outcome notwithstanding amongst other things the provisions in the *Sentencing Act* relating to Serious Offenders as set out in section 6E. You are again to be declared a serious sexual offender for all 14 offences and thus the provisions referred to are operative.

63 The prosecution contended that I should reject these submissions put by Mr Marsh and impose a sentence that in effect added to the current head sentence and fixed a new longer non parole period. It was put by the prosecutor, Mr Moore, that given the gravity of the offences and the need to acknowledge what was done to each victim and the harm caused the only just

and appropriate sentence was one that extended your incarceration.

64 It seems to me that the proper application of the principle of totality gives rise to number of important considerations. Firstly, the principle of totality requires that I fix appropriate sentence for each offence. It requires that when making orders for concurrency and importantly cumulation I must ensure that the total sentence is proportionate to the overall offending, no more and no less. This must be so with respect to both the head sentence and the non-parole period. This is best achieved by considering the sentences individually and then after cumulation, the total and then by finally stepping back and reconsidering so as to ensure that the sentences meet the totality of the offending and adjusting if they do not.

65 But secondly, I must give effect or at least not ignore the expressed intent of Parliament, that serious sexual offenders like you are to be treated or sentenced differently to other offenders. As was said by the McHugh, Gummow and Hayne JJ in their joint judgement in *RHMCL v The Queen*¹¹ with respect to the then s 16 (3A) of the *Sentencing Act*, which was the legislative predecessor of s6E

“The need for judges not to compress sentences is especially important where the accused person is a ‘serious sexual offender’ within the meaning of s 16(3A) of the Sentencing Act and similar provisions. Section 16(3A) gives effect to a legislative policy that serious offenders are to be treated differently from other offenders. It was plainly intended to have more than a formal effect, which is the effect it would frequently have if its operation was subject to the full effect of the totality principle...The evident object of the section is to make sentences to which it applies operate cumulatively rather than concurrently. The section gives the judge a discretion to direct otherwise. But the object of the section would be compromised and probably defeated in most cases if the ordinary application of the totality principle was a sufficient ground to liven the discretion....sentencing judges need to be astute not to undermine the legislative policy inherent in s 16(3A) by applying the totality principle to the sentences as if that section was not on the statute book.”

66 In *Gordon v The Queen*¹² Redlich JA revisited the tension between the

¹¹ (2000) 203 CLR 452 [76]

¹² [2013] VSCA 343

principle of totality and the provisions of s6E and importantly observed that one factor that would weigh in favour of cumulation would be when the objective gravity of the total offending increases.¹³

67 Here there the only description that can be given to these 14 offences is that objective gravity is very significant.

68 Accordingly, the principle of totality must have more limited application in the face of the serious offender provisions passed by our Parliament. The principle of totality is not wholly eliminated but the statutory provisions must be appropriately applied.

69 However, as emphasised by Mr Marsh, those matters which relate to the sentences to be imposed for the offences on this indictment, must be seen in light of your advanced age and the very long sentence you are undergoing for like crimes committed in the same period and in the same general circumstances. He submitted there comes a point when notwithstanding the objective gravity of the offences under consideration, the sentences must operate so as not to extend the current sentence, and this was that time.

70 A further consideration is the nature of the crimes and the harm caused to the victims. For victims of sexual offending perpetrated against them when they were children it is well known and accepted that it can take some time for them to come forward often many years or decades later. The law now well recognises, delays in reporting sexual crimes is commonplace. Thus, for serial predators such as you Mr Ridsdale, your many victims may over time and at different times gain the capacity to report what you did to them so many years before. Thus, as is the case here, you have been imprisoned for one set of offences when other victims come forward. Patently that has occurred with you on now 6 occasions. The principle of totality can take into account all the circumstances of the offences and the significant harm caused to the victims.

¹³ [74]

As was made clear by the Court of Appeal in *Sayer v The Queen*¹⁴, the principle of totality can and should be applied according to the circumstances, which maybe an appropriate variance from what as articulated by the High Court in *Mill v The Queen*¹⁵. The fundamental principles of individualised sentencing as described by the High Court in *Dalgleish v The Queen*¹⁶ provide all important guidance sentencing judges to ensure that all sentencing principles are not applied in a formulaic way.

71 In another important decision involving historic sexual offences committed on children by a religious brother, *DPP v Toomey*¹⁷ Vincent JA made the following observations.

On occasions, when imposing sentence, I have made mention of the notion of social rehabilitation. In DPP v. DJK, for example, I remarked:

"This notion of social rehabilitation is one that I do not believe has been accorded anything approaching significant recognition as an identifiable underlying concern of the criminal justice system. It seems to me that the process of social and personal recovery which we attempt to achieve in order to ameliorate the consequences of a crime can be impeded or facilitated by the responses of the courts. The imposition of a sentence often constitutes both a practical and ritual completion of a protracted painful period. It signifies the recognition by society of the nature and significance of the wrong that has been done to affected members, the assertion of its values and the public attribution of responsibility for that wrongdoing to the perpetrator. If the balancing of values and considerations represented by the sentence which, of course, must include those factors which militate in favour of mitigation of penalty, is capable of being perceived by a reasonably objective member of the community as just, the process of recovery is more likely to be assisted. If not, there will almost certainly be created a sense of injustice in the community generally that damages the respect in which our criminal justice system is held, and which may never be removed. Indeed, from the victim's perspective, an apparent failure of the system to recognise the real significance of what has occurred in the life of that person as a consequence of the commission of the crime may well aggravate the situation."

It is well to bear in mind that the rehabilitation of the victim of sexual abuse may often be more difficult to achieve than that of the perpetrator. Frequently the damage will be profound, and a long time will pass before it can be addressed at all. In the meantime, childhood will be destroyed,

¹⁴ [2018] VSCA 177

¹⁵ (1988) 166 CLR 59

¹⁶ [2017] HCA 41

¹⁷ [2006] VSCA 90

self-esteem damaged, educational and career opportunities lost and the capacity to form and maintain relationships seriously impaired. The notion to which I have adverted underpins, I believe, such concepts as restorative justice, just punishment, the vindication of rights and the attribution of responsibility based on moral culpability. The vindication of the victim in cases of this kind, in particular, is profoundly important if the criminal justice system is to perform its role properly.

Although much has been done in recent years to encourage young persons who have been subjected to inappropriate behaviours to report what has happened, by reason of the presence of a variety of factors it must be anticipated that often the commission of such offences will not be revealed for years and that their eventual disclosure will be both extremely difficult and painful for those offended against, their families and others associated with them.

If the system cannot be seen to have recognised the significance of what has occurred and to have responded appropriately, then its operations will discourage victims from coming forward and indirectly contribute to the concealment of offences. In my view, this cannot be permitted to occur.

72 In my view these important sentencing considerations are matters to consider in weighing up the questions of totality. What Justice Vincent was speaking about are matters that go directly to the respect the whole community affords to the criminal justice system and the vindication of individual victims. As to the latter point, it is true as your counsel submitted, no sentence can ever fully be an equivalence to what the victims endured. However, in my view giving some weight to the impact on the victims while adhering to the proper application of totality leads me to the view that to simply fold all the sentences that I impose for these each of these 14 crimes into the sentences you are currently undergoing would not sufficiently express or satisfy the central sentencing purposes of just punishment, denunciation and general deterrence. Complete concurrency would in my view inadequately recognise the gravity of your crimes and the serious harm that was inflicted on the victims. There must be some increase in your sentence and your non parole period, though much more moderate than would ordinarily be the case given your age and the time you have served already and the increased likelihood that you will die without being released.

73 I have mentioned the serious offender provisions of the *Sentencing Act*. For

completeness, you are to be declared a serious sexual offender for each of the 14 charges. Protection of the community will be the primary sentencing purpose in respect of each offence. In order to meet that purpose, there is no need to impose a disproportionate sentence and there was no contention by the prosecution that I should do so. The principle issue arising from these serious offender provisions is the requirement that the sentences be cumulative unless I otherwise order. I have discussed this issue about cumulation and totality with respect to these 14 charges but also most importantly with respect to the sentence you are undergoing. I note there is no statutory requirement for cumulation of these sentences upon the sentence you are currently undergoing. All that said, I will not fully cumulate my sentences for all these 14 offences but otherwise order significant concurrency. To do otherwise would result in a sentence that would be decades beyond any realistic life expectancy.

74 The *Sentencing Act* by s 5(2) (b) requires that I have regard to current sentencing practices. I have considered other sentences imposed for like offences and like offenders, including importantly those sentences imposed on you by Judges Dee, White, Rozenes and Lawson. I have been guided and I have applied what the High Court in *Dalgleish* described as individualised sentencing with respect to all matters including s 5 (2) (b). I have also applied the principles for sentencing for historical offences as set out in *Stalio v The Queen*¹⁸. I note that in more recent times and in respect of a different type of historic offence, the Court of Appeal in *Hague v The Queen*¹⁹ said

However, just as current sentencing practices cannot control the sentencing discretion in a case and does not cap and collar the sentence, past practice cannot have a greater or more controlling effect²⁰

75 Ultimately after all aspects of my sentencing task have been assimilated and given appropriate weight, I have again stepped back to ensure that matters in

¹⁸ [2012] VSCA 120

¹⁹ [2019] VSCA 218

²⁰ at [252]

mitigation have not been brushed over and given mere lip service because of the gravity of your crimes²¹. I have focussed on your old age and the need for there to be and seen to be genuine justice in our system which can still have a place for some mercy even to the worst offender as he becomes very old and frail. You are now different from the man who committed these horrid crimes and from the man who went into custody as a 60-year-old. Having stepped back and re-examined the totality of your crimes against these 4 victims and your sentences for all your crimes, I remain firmly of the view that you must be further punished for what you did to these four victims by a sentence that extends your current head sentence and your non parole period. In my view those extensions are just and appropriate and are moderate given the gravity of what you did and the harm you caused, but moderate because they must be given your age, health and the sentences you are undergoing.

76 The sentences I impose are as follows:

77 Charge 1 a representative charge of an indecent assault on a male person being victim 1, you are sentence to imprisonment for 1 year.

78 Charge 2 a representative charge of an indecent assault on a male person being victim 1, you are sentence to imprisonment for 6 months

79 Charge 3 a charge of an indecent assault on a male person being victim 1, you are sentence to imprisonment for 1 year.

80 Charge 4 a charge of buggery of victim 1, you are sentence to imprisonment for 6 years.

81 Charge 5 a course of conduct charge of an indecent assault on a male person being victim 2, you are sentence to imprisonment for 2 years

82 Charge 6 a charge of an indecent assault on a male person being victim 3, you are sentence to imprisonment for 1 year and 6 months

²¹ *The Queen v RGG* [2008] VSCA 94 at [3] per Ashley JA

- 83 Charge 7 a representative charge of an indecent assault on a male person being victim 3, you are sentence to imprisonment for 2 years.
- 84 Charge 8 a charge of an indecent assault on a male person being victim 3, you are sentence to imprisonment for 1 year and 6 months.
- 85 Charge 9 a charge of buggery of victim 3, you are sentence to imprisonment for 6 years.
- 86 Charge 10 a charge of buggery of victim 3, you are sentence to imprisonment for 6 years.
- 87 Charge 11 a charge of buggery of victim 3, you are sentence to imprisonment for 6 years.
- 88 Charge 12 a charge of an indecent assault on a male person being victim 4, you are sentence to imprisonment for 6 months.
- 89 Charge 13 a charge of an indecent assault on a male person being victim 4, you are sentence to imprisonment for 2 years and 6 months.
- 90 Charge 14 a charge of an indecent assault on a male person being victim 4, you are sentence to imprisonment for 2 years.
- 91 Charge 4 the charge of buggery of the 12-year-old victim 1 is the base sentence. I order that 1 year of charge 5 relating to victim 2 and 1 year of charge 9 and charge 10 relating to victim 3 and one year of charge 13 relating to victim 4 are cumulative on each other and on the base sentence. All other sentences will be served concurrently. Thus, the total sentence for this indictment is ten years. I order that 3 years of this sentence is to be cumulative on the sentence you are currently serving. I further order pursuant to s 14(1) *Sentencing Act* that a new non parole period be fixed of 4 years 10 months and 25 days from todays date. That adds 3 years to your current non parole period.

92 As was made clear by Judge Lawson her sentence raised your total time in custody to 33 years with a minimum of 28 years. My sentence has the effect of a global sentence of 36 years with a minimum of 31 years. Your earliest release date will be 8 April 2025 with your sentence to expire on 1 September 2031

93 Had you pleaded not guilty and been found guilty of these offences I would have imposed a sentence of 14 years and fixed a new minimum non parole period of 7 years from today's date. As can be seen your pleas of guilty in all the circumstances are of very significant value.

94 I declare that you are a Serious Sexual Offender for all charges, and I will ensure that this declaration is entered into the records of this court.

95 The provisions of the *Sex Offenders Registration Act* again apply to you. It is mandatory that you register and remain compliant with the requirements of the Act for the mandatory period which is life.

--