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*Judgment: approved by the court for handing down (subject to editorial corrections)**	*Delivered:*	**18/09/2026**

IN HIS MAJESTY'S COURT OF APPEAL IN NORTHERN IRELAND

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THE KING

v

THOMAS McKENNA

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Mr Charles MacCreanor KC with Mrs Fiona O'Kane (instructed by Public Prosecution Service) for the Crown
Mr Kevin Magill KC with Mr Kevin O'Hare (instructed by The Elliott Trainor Partnership Solicitors) for the Applicant

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Before: Keegan LCJ, Colton LJ and M Smyth J

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KEEGAN LCJ (*delivering the ex-tempore judgment of the court*)

Introduction

[1] This is a renewal of a leave application to appeal an extended custodial sentence ("ECS") imposed on the applicant of 16 years' imprisonment split equally between custody and licence and a seven-year extended licence. The sentence was imposed by Her Honour Judge Smyth ("the judge") on 21 April 2023. Leave was refused by the single judge, Mr Justice O'Hara, in a decision of 20 March 2026.

Background

[2] The history of the case is well set out in the judge's sentencing remarks. We can see that the sentence followed pleas of guilty to 162 counts of different forms of sexual abuse involving 23 individuals over a period of 30 years between 1989 and 2019. This offending occurred at a time when the applicant was a Club treasurer and a member of numerous management teams at Crossmaglen Rangers. He also worked for the Royal Mail and was associated with the Credit Union.

[3] We cannot improve on what the judge, in her judgment, said about this offending as follows:

> "You targeted boys and young men, 23 in total, manipulating them to the point where they felt utterly powerless and unable to disclose what you had done. The psychological harm that you have inflicted is immeasurable and there is no sentence that this court can pass that will repair that damage."

[4] In her sentencing remarks the judge also described how the applicant manipulated his victims by befriending them and disguising the true nature of his behaviour under the mask of respectability. The judge referred to the control that had persisted over 30 years. She also commented that the control that was exercised for decades did not end when the applicant was finally caught because the applicant chose to defend the charges denying that anything of a sexual nature had occurred for a considerable period of time, accusing the victims of lying and fabricating accounts and referring to some of the sexual activity being consensual. The judge's assessment was that this was a further attempt to continue the psychological power games that had been demonstrated over years by the applicant. This aspect of the case relates to the fact that there was a plea of guilty, but it was at a very late stage at the door of the court.

[5] The criminal offending encompassed a range of offences. Without setting out all of the statutory provisions, we summarise that offending as a range of indecent assaults, sexual assault, sexual assault by penetration, gross indecency and voyeurism. The maximum sentence for the most serious offence of sexual assault by penetration is life imprisonment.

Grounds of appeal

[6] There were initially four grounds of appeal put before this court, but Mr Magill has helpfully refined his application for leave to two central grounds as follows.

(i) Firstly, that the judge's starting point of 20 years was too high resulting in a sentence that was manifestly excessive when totality is considered.

(ii) Secondly, that the seven-year extended custodial sentence term was too long and unreasoned.

Consideration

[7] In advancing the first ground of appeal Mr Magill KC relied on authority in this general area and essentially made the point that other cases of more serious offending such as buggery or attempted rape and other cases involving younger

children have resulted in lower sentences. He argued that by comparison, this sentence appears too high.

[8] We are familiar with the cases that Mr Magill has referred to. However, as we have consistently said in this court it is not usually a productive exercise to compare cases. That is particularly so in relation to sexual offending because each case is fact sensitive and the outcome depends on the facts.

[9] We reiterate two other sentencing principles that this court has articulated in other cases. The first is that sentencing is not a rigid mathematical exercise and, second, that sentencers should have the flexibility to reach an overall sentence in any case to fit the level and extent of offending.

[10] In this case, the seriousness of the offending is obvious. This is well summarised by the judge at para [14] of her judgment where she said:

> [14] It is accepted that there is a level of abuse over and above that which was perpetrated in this case. However, the sheer scale and duration of your offending elevate this case to an unprecedented level."

[11] The judge goes on refer to a number of aggravating factors, namely grooming and manipulation, that some of the victims were particularly young and vulnerable, that the applicant's position within the community and the club provided the opportunities for abuse, and so there was an abuse of trust. As the judge states, that trust was trust that both children and parents reposed in the applicant to safeguard their children when involving them in sporting activities.

[12] The judge also reflects the very significant harm to the victims. To reflect all of these factors representing high culpability and harm the judge then had to decide upon the appropriate overall sentence. The key to her sentencing exercise is found at para [28] of the sentencing remarks where she sets out her methodology. In this paragraph she refers to the need to impose a global sentence, she identifies two groups of offences where she identifies penetrative offences as one group and then another group of offences and she looks at a mix of concurrent and consecutive sentences.

[13] In truth, Mr Magill could not raise any substantial challenge to the methodology used by the judge. He realistically accepted that this case merited a significant custodial sentence, albeit he submitted that it should have fallen below 20 years.

[14] We are not convinced that this argument is sustainable in any respect. As the judge said, the sheer scale and duration of the offending elevate this case to an unprecedented level. Twenty years was a significant starting point, but in our view, it is not outside the range, for high level offending including penetrative offences

against a high number of victims over 30 years. Hence, in relation to the first ground of appeal based on the starting point and totality we refuse leave and dismiss the appeal.

[15] The second ground of appeal was comprised in the notice of appeal of grounds 4 and 5 relating to the seven-year extended licence. On this ground the argument that Mr Magill advanced is relatively simple. That is because there is no dispute that the applicant is a dangerous offender. There is also no dispute that the provisions of Article 14 of Criminal Justice (Northern Ireland) Order 2008 were properly applied. In summary, those provisions deal with the requirements which must be satisfied before an extended custodial sentence can be imposed when the court is of the opinion that there is a significant risk to members of the public of serious harm occasioned by the commission by the offender of further specified offences and where the offences are serious offences.

[16] There is no argument against the making of an ECS. However, the ancillary argument is two-fold. First, Mr Magill submits that the judge did not explain the length of the extended licence period. Secondly, he challenges the seven years chosen by the judge for the extended licence which is one year below the maximum.

[17] On the first point, we agree that the judge did not set out the reasoning behind the seven-year licence. However, it was self-evident that the extended licence period would be at the higher end. That is because of that we have said about the risk that was apparent in this case. We are not convinced that the judge was unaware of the Sexual Offences Prevention Order ("SOPO"). She expressly refers to the fact that a SOPO was being prepared, albeit it was dealt with at a later stage. The judge was uniquely best placed to assess this having had conduct of this trial and having heard detailed submissions.

[18] Whilst Mr Magill is right that there is a sparse reasoning, that does not end the consideration. We must consider the length of the extended licence ourselves. In relation to this, both counsel have referred us to several cases, but they are of relatively limited value. That is probably because the issue of the length of an extended licence following a finding of dangerousness involves an evaluation made by a judge which is not challenged on a regular basis.

[19] That said, this court has jurisdiction to consider whether the judge has erred and fallen outside an appropriate range when setting the length of the extended licence. The only decision that we have gleaned some assistance from is *R v Cambridge* [2015] NICA 4. This case reminds us that the extended licence period will be for such period as is considered necessary to protect the public from serious harm. The protective element must be reflected in the length of the extended licence period.

[20] We have also listened carefully to what Mr Magill has highlighted from the probation assessment of the applicant. There are various articulations of risk in the

pre-sentence report but ultimately, the probation assessment is that the applicant presents a high likelihood of reoffending and has a high to medium need for supervision. Such an assessment considers all of the background factors, and the judge is then left with an evaluation to make as to what length the extended licence should be to protect the public.

[21] We return to what the test in the appellate court is and ask ourselves the question has the judge erred outside of a reasonable range? The test is not what extended licence period members of the court would impose but has the judge gone outside the range.

[22] Having reflected on this aspect of the appeal we do not consider that the judge's choice of seven years was manifestly excessive. It was towards the highest end of the range that the judge could have gone to but we are not satisfied on a full reflection of the facts of this case and bearing in mind the judge's advantage as a sentencing judge that this was manifestly excessive or is something that we should interfere with. Mr Magill has made a valid good argument in relation to this aspect of the appeal which merits leave but we dismiss this ground of appeal.

Conclusion

[23] In concluding our judgment, we return to what the judge said and what we have also read about this case. The harm and hurt that the applicant's behaviour has caused to an entire community in Crossmaglen is very apparent to us. The victim statements which we have read are a poignant reminder of the effects of such insidious sexual abuse and the breach of trust that was evident in this case. We commend the victims who came forward in difficult circumstances. We commend the strong and supportive community spirit in Crossmaglen which assisted them. We commend the efforts made by those who also assisted in bringing this offender to justice and facilitating the victims such as Ms Fox, the Child Protection Manager with Ulster GAA. This case is a salutary reminder that individuals can abuse their position over years in positions of trust, but also that the law will catch up with them and punish them accordingly.

[24] We dismiss this appeal.