IN HER MAJESTY'S COURT OF APPEAL IN NORTHERN IRELAND

THE QUEEN

v

JOHN McDONALD, TREVOR THOMAS TAGGART AND ALEXANDER FARQUHAR

Hutton LCJ

We had these 3 cases listed together before us so that we might have an opportunity to state the principles which we consider should guide the Crown Court judges in this jurisdiction in sentencing accused who have been found guilty of rape or who have pleaded guilty to the charge of rape. One of the cases was an application for leave to appeal against concurrent sentences imposed for rape and the other 2 cases were appeals against sentences imposed for rape.

Imposing an appropriate sentence where an accused is guilty or rape can be a difficult task because of the various considerations which may have to be taken into account including aggravating factors which may often exist.

At the outset we would like as did the Court of Appeal in England in R v Billam and Others [1986] 8 CAR (S) 48 to cite a passage which, like the English Court of Appeal, we consider accurately describes the view which should be taken of the offence or rape and which is contained in the Criminal Law Revision Committee's 15th Report on Sexual Offences, Command Paper 9213 of 1984:

"Rape is generally regarded as the most grave of all the sexual offences. In a paper put before us for our consideration by the Policy Advisory Committee on Sexual Offences the reasons for this are set out as follows -

`Rape involves a severe degree of emotional and psychological trauma; it may be described as a violation which in effect obliterates the personality of the victim. Its physical consequences equally are severe: the actual physical harm occasioned by the act of intercourse, associated violence or force and in some cases degradation; after the event, quite part from the woman's continuing insecurity, the fear of veneral disease or pregnancy ... Rape is also particularly unpleasant because it involves such intimate proximity between the offender and the victim. We also attach importance to the point that the crime of rape involves abuse of an act which

can be a fundamental means of expressing love for another; and to which as a society we attach considerable value."

In Billam's case in February 1986 in a judgement delivered by Lord Lane LCJ the English Court of Appeal gave guidance to the judges in England in respect of the principles which they should adopt in sentencing for rape. We would wish to acknowledge our indebtedness to that judgment and the great assistance which we have derived from it. We respectfully agree with the English Court of Appeal that:

"Rape is always a serious crime which calls for an immediate custodial sentence other than in wholly exceptional circumstances".

The guidance given in Billam's case can be regarded as consisting of 2 parts. The first part was where the Court laid down the sentence which should be regarded as the starting point in a contested case. At 50 Lord Lane stated:

"For rape committed by an adult without any aggravating or mitigating features a figure of 5 years should be taken as the starting point in a contested case."

Having stated the starting point Lord Lane then proceeded to state the matters which should be regarded as aggravating or mitigating features as follows:

"Where a rape is committed by 2 or more men acting together, or by a man who has broken into or otherwise gained access to a place where the victim is living, or by a person who is in a position of responsibility towards the victim, or by a person who abducts the victim and holds her captive, the starting point should be 8 years.

At the top of the scale comes the defendant who has carried out what might be described as a campaign of rape, committing the crime upon a number of different women or girls. He represents a more than ordinary danger and a sentence of 15 years or more may be appropriate.

Where the defendant's behaviour has manifested perverted or psychopathic tendencies or gross personality disorder and where he is likely, if at large, to remain a danger to women for an indefinite time, a life sentence will not be inappropriate.

The crime should in any event be treated as aggravated by any of the following factors:

(1) violence is used over and above the force necessary to commit the rape;

(2) a weapon is used to frighten or wound the victim;

(3) the rape is repeated;

(4) the rape has been carefully planned;

(5) the defendant has previous convictions for rape or other serious offences of a violent or sexual kind;

(6) the victim is subjected to further sexual indignities or perversions;

(7) the victim is either very old or very young;

(8) the effect upon the victim, whether physical or mental is of special seriousness. Where any one or more of these aggravating features are present, the sentence should be substantially higher than the figure suggested as the starting point.

The extra distress which giving evidence can cause to a victim means that a plea of guilty, perhaps more so than in other cases, should normally result in some reduction from what would otherwise be the appropriate sentence. The amount of such reduction will of course depend on all the circumstances, including the likelihood of a finding of not guilty had the matter been contested.

The fact that the victim may be considered to have exposed herself to danger by acting imprudently (as for instance by accepting a lift in a car from a stranger) is not a mitigating factor; and the victim's previous sexual experience is equally irrelevant. But if the victim has behaved in a manner which was calculated to lead the defendant to believe that should would consent to sexual intercourse then there should be same mitigation of the sentence. Previous good character is only of minor relevance."

We are in complete and respectful agreement with Lord Lane's very helpful summary of these features but we respectfully consider that in this jurisdiction for rape committed by an adult without any aggravating or mitigating features a sentence of 7 years and not 5 years should be taken as the starting point in a contested case. This view was foreshadowed in the judgment of this Court delivered by Lord Lowry LCJ in R v Stanton (unreported) where after referring to the judgment in Billam's case Lord Lowry stated:

"We would respectfully agree with everything which the learned Lord Chief Justice said when drawing up his categories of rape offences unless it to be query whether the basic figure of 5 years is a high enough starting point which to vary upwards or downwards in a contested case."

Reading the judgment in Billam's case it appears to us that in fixing the starting point at 5 years the English Court of Appeal may have been influenced to some

extent by the criminal statistics for sentences for rape in England in 1984 which Lord Lane stated as follows at 50:

"Of the 95 per cent who received custodial sentences in 1984, 28 per cent received sentences of 2 years or less; 23 per cent over 2 and up to 3 years, 18 per cent over 3 and up to 4 years, 18 per cent over 4 and up to 5 years and 8 per cent over 5 years (including 2 per cent life). These included partly suspended sentences and sentences to detention centre of detention under section 53(2) of the Children and Young Person's Act 1933 as well as imprisonment or youth custody. Although it is important to preserve a sense of proportion in relation to other grave offences such as some forms of manslaughter, these statistics show an approach to sentences for rape which in the judgment of this Court are too low."

Accordingly in England where 95 per cent received custodial sentences 51 per cent received sentences of less than 3 years, 69 per cent receives sentences of less than 4 years and 87 per cent receives sentences of less than 5 years. whereas only 8 per cent received sentences over 5 years. Therefore for the English Court of Appeal to raise the starting point to 5 years was a substantial increase having regard to the level of sentences in England.

However the criminal statistics for rape in Northern Ireland for 1986, 1987 and 1988 furnished to us who that the average range of sentences in Northern Ireland was higher than the average range in England in 1984. In Northern Ireland during those 3 years of the 94 per cent who received custodial sentences, 4 per cent received sentences of 2 years or less, 12 per cent received over 2 and up to 3 years, 6 per cent received over 3 and up to 4 years; 14 per cent received over 4 and up to 5 years and 52 per cent received over 5 years (including 2 per cent life).

Moreover it is the impression of the Court that offences of rape often accompanied by violence, are increasing in this jurisdiction, and public concern abut rape is also increasing and it is appropriate for the courts who should reflect proper public concern to take account of this. Therefore we consider it right to state that the starting point should be 7 years and not 5 years where the case is contested. This court has held that in this jurisdiction the same level of damages in civil awards and sentences in criminal cases need not apply as apply in England and in Simpson v Harland & Wolff Plc [1988] (as yet unreported) Lord Lowry LCJ stated:

"I would reject the suggestion that our calculations of general damages are `wrong' if they do not conform to standards observed in other jurisdictions since Northern Ireland, like Scotland and the Republic of Ireland, constitutes a separate legal jurisdiction with its own judicial and social outlook. The courts have their own standards, for example, sentencing in criminal (cases) and damages in civil cases, and those are the standards established or approved by the people whom the courts in this jurisdiction exist to serve."

We think it desirable to make clear that whilst we state that 7 years should be the starting point for rape committed by an adult in a contested case where there are no aggravating or mitigating features the sentence should be higher and perhaps very much higher if there are aggravating features and also the sentence should be lower if there are mitigating factors.

We now turn to consider the individual appeals.

The applicant John McDonald, who applies for leave to appeal before his Honour Judge Watt QC at Newtownards Crown Court on 1 September 1988 when he pleaded guilty to 2 counts of rape and a third count of assault occasioning actual bodily harm. He had a minor record of a conviction for theft in 1985 and convictions for obtaining property by deception in 1986 for none of which offences he received a custodial sentence and he had no previous convictions for sexual offences or offences involving violence. Judge Watt sentenced him to terms of 10 years' imprisonment on Counts 1 and 2 for the offences of rape and to a sentence of 2 years' imprisonment on Count 3 for the assault occasioning actual bodily harm all the sentences to be concurrent.

In passing sentence Judge Watt said:

"Now John McDonald, you have pleaded guilty to 2 offences of rape and one offence of assault occasioning actual bodily harm. The girl in question was very young at the time just 18 years of age and you knew according to the statement and according to the photographs which were taken of her immediately afterwards that a great deal of what can only be described as severe violence was done to her.

You raped her not once but twice on 2 separate and distinct occasions. She suffered substantial injuries which are clear from her photographs and in fact as I understand it she had been trying to help you get home because she really knew you and this is how you repaid her for giving you that assistance.

Moreover you threatened to kill her if she told anyone what had happened. She says that you told her `Do not tell anyone or I will kill you. Just say that you fell'.

I think that this is one of the most serious rape cases that I have came across and had it not been for your plea of guilty and your comparative youth I would have considered sending you to prison for something like 12 or 13 years.

As it is I propose to send you to prison for 10 years, in relation to each count or rape and 2 years in relation to the count of assault occasioning actual bodily harm.

I say it again that had it not been for your youth and what has been said about you in your plea of guilty your sentence would certainly have been considerable longer because this is one of the worst cases I have seen."

Briefly stated the facts of the case were as follows. The applicant, who is aged 19, knew the complainant, who was aged 18, as she was a friend of his sister. In the early hours of the morning of 1 January 1988 they were both at a nightclub, although they were not together. The applicant was drunk and the complainant agreed to walk him home to his flat. When they reached the door of the applicant's flat the complainant was going to leave him but he invited her in telling her that she would be alright. The complainant went in and she said in her police statement that she went in just to get him to keep quiet but once she was in the applicant's flat he put the snib on the lock on the door and pulled across the top and bottom bars. They sat and talked for a short time and when the complainant got up to go the applicant punched her on the face and he punched her several more times. He also trailed her onto the floor by her hair. When she was on the ground he again punched her and in police statement the applicant said in reference to one punch:

"I punched her on the face ... I knew it was a good one. I could feel it was severe. She squealed and I told her to shut up and I hit her twice again and on the left side of her face. These weren't as heavy."

The applicant then raped her and the intercourse lasted for about 20 minutes. The complainant pleaded with him to let her go but he refused and struck her again.

A photograph of the complainant taken shortly after the offences showed that she had a badly bruised face.

When the rape had ended the complainant tried to get away and crawled over the door but when she had the door slightly ajar the applicant grabbed her from behind, turned her round and put his hands on her throat and tried to choke her. He pulled her to the floor again and again raped her.

Some time after the second rape the applicant allowed the complainant to leave the flat and as she was leaving he said to her "Don't tell anyone or I'll kill you ... just say you fell".

After the complainant left the applicant's flat she went up to a man in the street about 3 am and asked him for help and this man was a Crown witness who made a witness statement.

Mr Cinnamond QC on behalf of the applicant submitted that concurrent sentences of 10 years for the 2 offences of rape were manifestly excessive because the judge had not given the applicant a sufficient discount for his plea of guilty and had not taken sufficient account of the fact that he had no previous convictions for sexual or

violent offences and of his comparative youth. Mr Cinnamond further submitted that the sentence was manifestly excessive when compared with other sentences imposed for rape in Northern Ireland where there had been a plea of guilty and he further submitted that the learned trial judge who was a very experienced judge, erred in expressing the view that the case was one of the most serious rape cases that he had ever come across.

In the opinion of the Court whilst this was not one of the most serious rape cases which has come before the courts, it was, undoubtedly a bad case. There were a number of the aggravating features specified by Lord Lane:

(1) The applicant used considerable violence towards the complainant over and above the force necessary to commit the rapes. He punched her very violently, leaving her with a very bruised face, and he also tried to choke her when she tried to escape from his flat after the first rape.

(2) The rape was repeated a second time.

(3) When the applicant finally allowed the complainant to go he threatened her and told her "Don't tell anyone or I'll kill you".

One of the factors in determining the amount of discount given for a plea of guilty is the strength of the case against the accused. Where there is a strong case against an accused the discount need not be as much as where there is a plausible defence: see R v Davis [1980] CAR(S) 168 per Lawton LJ at 170. In this case we consider that there was a very strong case against the applicant because of the very severe bruising which was clearly to be seen on the complainant's face. As we have stated this was a bad case because of the aggravating features to which we have referred. Therefore, whilst the sentence of 10 years is a severe one, taking account of the applicant's plea of guilty, we do not consider that it is so severe as to come within the categories of sentence where it is either wrong in principle or manifestly excessive.

Accordingly, we dismiss the application of McDonald for leave to appeal.

We now turn to consider the appeal by Trevor Thomas Taggart. On 14 October 1988 he pleaded guilty at Belfast Crown Court before his Honour Judge Gibson QC to 3 counts of rape, 2 counts of buggery, 2 counts of indecent assault and for counts of indecent conduct. These offences were all committed against the same little girl and it appears that they were committed in a period of about 18 months between the commencement of 1986 and the middle part of 1987. At the time of the offences the little girl was aged between 8 and 10 and she was the appellant's step-daughter. Briefly stated the circumstances of the offences and the way in which the offences were committed as follows. The appellant married his wife in 1979 and when he married her she had a daughter one and a half years old. The appellant and his wife

then had two children. The marriage between the appellant and his wife began to break down in or about 1985. One evening about the start of 1986 whilst his wife was out and whilst the appellant was in bed his step-daughter came into the bedroom and got into bed beside the appellant. On this occasion, and it would appear that this was the first occasion, the appellant committed an indecent assault against the little girl. On future occasions the appellant committed other indecent assaults against the little girl and was also guilty of disgusting acts of indecent conduct in relation to her. Then on occasions the appellant committed rape against the little girl. In his statement to the police in describing the acts of rape the appellant used language which indicated the penetration was very limited and this is supported by the medical evidence.

On a number of occasions the appellant also committed the disgusting act of having oral sex with the little girl and he forced her to permit him to carry out these disgusting acts.

The appellant and his wife separated in May 1986 and he then went to live in a separate flat. Under the Separation Order which his wife had obtained he was allowed access to his two children and to his step-daughter each Sunday and on a number of occasions when his children and the step-daughter were visiting him in the flat he sent his own children out to play and he committed acts of buggery against his step-daughter.

The police became aware of the alleged offences in April 1988 and when he was first interviewed by the police and was told that they were making inquiries into an allegation which has been made by his step-daughter that he had sexually abused her over a period of time he immediately admitted the offences and made a full confession to the police. The statement and the medical report of the police doctor who examined the little girl stated that there were no signs of past or recent injury and no marks of violence in the vagina or anus. In her report the police doctor said:

"A was a bright, cheerful, intelligent child, well nourished, well dressed and well adjusted when I examined her on 20 April 1988. She had put the episode behind her. There were no overt signs of psychological damage at the time.

On discussion with Dr Little the child has settled well and there are no current problems."

The appellant was born on 21 October 1958 and has always been in steady employment. He has a completely clear record. A report from a psychiatrist who examined him makes it clear that the appellant suffers from no mental illness or mental instability and had an intelligence level within the normal range.

In sentencing the appellant the learned trial judge took note of all the points which could be advanced in his favour, such as his admissions to the police and his plea of

guilty and his clear record and other matters in his personal history. Then, after describing the disgusting sexual offences committed by the appellant, the learned trial judge went on to say:

"These acts were committed by a man in his late 20's against his own step-daughter aged between 8 and 10. It is quite the most appalling case that I have encountered and as I have indicated earlier quite the worst case that I have encountered. The public aspects of such a case clearly far outweigh those aspects which are personal to the defendant to such an extent as to my mind obliterate anything that can be said or put forward in mitigation on behalf of the defendant.

Indeed, the gravity of the case is such that it has persuaded me to the view that an example should be made of the defendant to deter others from even thinking of such conduct against young children, and to let the public know in very clear terms that the courts are not going to tolerate this kind of conduct for one moment. I therefore intend to impose the maximum sentence which is open to me, that is, life imprisonment."

It therefore appears that the learned trial judge was appalled and horrified by the crimes committed by the appellant against this little girl and decided that an example should be made of him in order to deter others and that this necessity outweighed any matters which could be advanced in mitigation on behalf of the appellant, such as his plea of guilty and accordingly sentenced him to life imprisonment. In considering this case we wish respectfully to adopt the words of Lawton LJ in R v Willis [1974] 60 CAR 146 to 147:

"One of the difficulties which judges have in sentencing offenders of this type is their own reactions of revulsion to what the accused has been proved to have done. Right-thinking members of the public have the same reactions and expect the judges in their sentences to express public abhorrence ..."

But this very understandable feeling of revulsion (which is shared by this Court) is not a reason why there should be a departure from well established principles of sentencing and in this case we are of opinion that the learned trial judge did depart from well established and clearly laid down principles in a number of respects.

First, the principle is well established that a sentence of life imprisonment should not be imposed for rape or other sexual offences unless as was held by the English Court of Appeal in R v Hodgson [1968] 52 CAR:

"It appears from the nature of the offences or from the defendant's history that he is a person of unstable character likely to commit such offences in the future."

This principle has frequently been restated by the courts and in Billam's case at 51 Lord Lane stated:

"Where the defendant's behaviour has manifested perverted or psychopathic tendencies or gross personality disorder and where he is likely, if at large, to remain a danger to women for an indefinite time, a life sentence will not be inappropriate."

In this case where the appellant has a completely clear record and has committed no sexual offences other than against this little girl there is nothing to indicate that he is a person likely to commit such offences in the future when he is released from prison, a considerable number of years from now. Therefore the learned trial judge erred in principle in imposing a life sentence as a deterrent. It was right and proper in this case to impose a deterrent sentence but such a sentence should have been for a fixed term of years and not for the indeterminate period of a life sentence.

Secondly it was erroneous not to give some reduction in sentence to the appellant for his plea of guilty, particularly where he had admitted his guilt to the police from the outset. In Billam's case Lord Lane stated:

"The extra distress which giving evidence can cause to a victim means that a plea of guilty, perhaps more so than in other cases, should normally result in some reduction from what would otherwise be the appropriate sentence. The amount of such reduction will of course depend on all the circumstances, including the likelihood of a finding of not guilty had the matter been contested."

And in R v Sullivan [1988] C.L.R.188 where the appellant, who had a very bad record for previous crimes of rape and sexual assault against women, pleaded guilty to abducting one woman with intent to rape her and to assaulting her, and to assaulting another woman with intent to rape her and was sentenced to the maximum term of imprisonment which was 14 years, the Court of Appeal reduced the sentence of 14 years to 12 years and held that:

"The present case was one of the utmost gravity which merited a substantial sentence but by pleading guilty the appellant did make it unnecessary for the victim to re-live her experience by giving evidence in public. Public policy demanded that in most cases a plea of guilty should attract some discount from the sentence which the Court would pass if the case were contested."

In addition it was held by the Court of Appeal in England in R v Morgan [1988] 86 CAR 307 that:

"In all cases where a trial judge is minded to impose a discretionary life sentence, counsel for the defendant should be informed to enable him to make submissions upon it."

This court respectfully agrees with that ruling which was not compiled with by this trial judge in this case.

Therefore we consider that in this case it was wrong in principle to impose life sentences on the counts of rape and buggery and the learned trial judges should have imposed sentences of fixed terms of years.

This was an appalling case which had a number of very grave aggravating features as specified by Lord Lane in Billam's case. The appellant was the step-father of the little girl and was in a position of special trust and responsibility in relation to her, and moreover he committed the offences of buggery when she visited him in pursuance of access arrangements ordered by a court. The little girl was very young. The rapes and buggeries were repeated. The little girl was subjected to the disgusting perversion of oral sex practised by the appellant.

We consider that these features require a very heavy sentence and giving the appellant a discount for his admission of guilty at an early stage and his plea of guilty, we consider that the appropriate sentence to substitute for each sentence of life imprisonment is 14 years. Therefore on counts 5, 6, 9, 10 and 11 we substitute sentences of 14 years. These sentences of 14 years are to be concurrent. We also direct that the other sentences imposed by the trial judge on the other counts will be concurrent with each other and with the sentences of 14 years.

We now turn to consider the appeal by Alexander Farquhar. On 21 october 1988 he pleaded guilty at Belfast Crown Court before His Honour Judge Gibson QC to one count of rape, 4 counts of indecent assault and one count of indecent conduct. These offences were all committed against the same little girl who was the niece of wife. It is difficult to know over what period of time the offences were committed but it appears that the offences were committed over a period which did not exceed a number of weeks and at the time of the offences the little girl was aged between about 8 and 9.

The offences were committed as follow. The appellant was accustomed to leave his motor car in the garage attached to the house where the little girl lived. One day he went into the garage to work at his car and either the little girl went in with him or she came into the garage after he had started to work at the car. The appellant asked her to take her pants down and he indecently assaulted her with his finger. He then committed rape against her. In his statement to the police the appellant said that he gently pushed his penis a short distance into her vagina and that he took it out when she said that it hurt and this description conforms with what the little girl told the police in her statements to them.

On other occasions during the next few weeks when he was working at the car in the garage and the little girl joined him in the garage whether at his request or suggestion it is not clear, he committed other acts of indecent assault and indecent conduct against her and on one occasion he pushed the handle of a small screw driver a short distance into her vagina and withdrew it when she said it hurt.

When he was first interviewed by the police the appellant admitted very soon after the start of the interview that he had committed indecent assault on the little girl and shortly afterwards in the interview admitted, in effect, that he had committed rape.

The statement of the police doctor who examined the little girl states that her hymen was broken. The statement also states that on physical examination there were indications that the little girl now engages in masturbation due, it would seem, to the acts committed against by her the appellant.

The appellant was born on 23 August 1946. He has a completely clear record. He is married and served in the Army for 22 years. The report of psychiatrist who examined him shows that he is not suffering from mental illness, although the psychiatrist states that there may well be some basic personality difficulties including inadequacy and intro-punitive features. And it further appears from the psychiatrist's report that the appellant has suffered from a mild from of anxiety state.

It appears to be clear that after these offences the appellant desisted from further sexual assaults on this little girl although he had other opportunities to carry out assaults upon her.

In sentencing the appellant the learned trial judge took note of the points which were made in his favour which included his clear record, the fact that he stopped carrying out the offences, and his admission of guilt at an early stage and his plea of guilty when he appeared before the Court. At the end of his remarks on passing sentence the judge said:-

"However, this case, like all of these types of cases, chills one. I have to balance the factors which were made in mitigation and which are personal to the defendant as against the question of the public interest. The public interest is clearly paramount.

Earlier I had indicated that I intended to impose an immediate custodial sentence and moreover it is an appropriate case for what might be termed as punishment on a global basis. That is, to assess the overall penalty that is appropriate for the whole of the defendant's conduct. Such a case as this is a very serious case in my view fully merits a sentence of 20 years' imprisonment.

I will deal then with each individual count and impose the following sentences. Count 1, rape, 12 years; Count 2, indecent assault, 18 months; Count 3, indecent assault, 18 months. Count 4, 18 months. Count 5, 18 months. Count 6, 2 years which is the maximum for an offence of gross indecency making a total sentence of 20 years in all."

As we have stated, whilst it is not certain, it appears that the offences were committed over a period of weeks. In those circumstances we consider that the

proper course for the trial judge to have taken was to have imposed concurrent sentences, rather than consecutive sentences. This was the approach taken by the English Court of Appeal in R v Lewis [1972] which is noted in the Current Sentencing Practice at A5.2(b) where Orr LJ stated:

"We think that it was proper in this case to make the terms of imprisonment for buggery and indecency with the same boy, those being all acts under the same association and within the same period, concurrent and not consecutive."

In that case the offences were committed over a period of several months.

The case in which Faquhar pleaded guilty was a very bad case but it was not as bad as Taggart's case, because there was only one offence of rape and, whilst there was the offence with the screw driver, that perverted act was not as bad as the perversions inflicted on the little girl by Taggart. The offences committed by Farquhar were carried out over a relatively short period and then the appellant desisted from further offences. In addition, as we have already stated in considering Taggart's case, Farquhar is entitled to some reduction in sentence for his plea of guilty.

Rape against a little girl is a very grave offence in any circumstances and must carry a severe sentence. In law the slightest penetration by the penis of the accused constitutes rape. But in deciding the proper sentence in any particular case it is necessary to have regard to the particular facts of that case. If the penetration of the child's vagina is slight and for a very short time and the penetration is not forceful and there is no ejaculation (which, having regard to the written statement of the appellant, to his replies to the questions of the police and to the statements of the little girl herself appears to have been so here) then, although there must be a severe sentence, the rape should not be punished with as heavy a sentence as would be imposed if the rape had the features which were not present in this case.

The total sentence of 20 years passed on Farquhar was clearly manifestly excessive and far exceeds any sentence in any comparable case in the many authorities helpfully cited to us by counsel. Taking account of the appellant's plea of guilty and the particular facts relating to the one offence of rape which he committed we would have thought that the appropriate total sentence on the appellant would have been a little less than 10 years if it had not been for the factors to which we now refer. But taking account of the indications found on examination of the little girl by the police doctor to which we have referred earlier in this judgment and which appear to be attributable to the acts committed by the appellant and taking account also of his perverted offence committed with the screw driver, we consider that the appropriate total sentence on the appellant should be 10 years. Therefore we reduce the sentence imposed by the learned trial judge for the offence of rape on the first count from 12 years to 10 years and we direct that all the sentences should be concurrent so that the total sentence will be 10 years.

The proper administration of justice requires that sentencing should be carried out in accordance with principles which have been established by decisions of the appellate courts. There is sometimes public mis-understanding, particularly in cases in rape and other sexual offences where a court of trial imposes a sentence or a Court of Appeal reduces a sentence and it is thought that the court is not taking a sufficiently severe view of a particular offence when, in reality, the court is applying well established principles. This Court makes it clear that it regards rape as a serious crime which normally carries a heavy sentence of imprisonment, and where there are aggravating features the sentence should be very heavy. But sentences have to be imposed in accordance with established principles and having regard to the particular circumstances of each case which can greatly vary. In upholding the sentence of 10 years' imprisonment on McDonald, which is a severe sentence having regard to the fact that he pleaded guilty this court makes it clear that men who rape and beat up women can expect heavy sentences which are and are intended to be deterrent. This Court has reduced the sentences on Taggart and Farquhar because the judge who imposed to them and who, understandably was appalled by the offences erred in principle in relation to Taggart and imposed a sentence which was manifestly excessive and beyond the proper range in relation to Farquhar. But this Court considers, as does the general public, that those who sexually assault or abuse children must receive severe and deterrent sentences and in substituting sentences of 14 years and 10 years on Taggart and Farquhar respectively, who are entitled to some reduction in the sentences imposed on them because they pleaded guilty, this Court has imposed such sentences.