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*Judgment: approved by the Court for handing down (subject to editorial corrections)**	*Delivered: 3/6/2019*

IN HER MAJESTY'S COURT OF APPEAL IN NORTHERN IRELAND

R

-v-

PATRICK CARTON

Before: Deeny LJ, Treacy LJ and Sir Paul Girvan

TREACY LJ (delivering the judgment of the court)

[1] The Single Judge in this case, Mr Justice Horner, granted leave to appeal against the sentences imposed on the sole ground that he considered that the overall period of 13 years in prison was arguably manifestly excessive. There is no question that the trial judge in this case was faced with an extremely difficult sentencing exercise. But it is quite clear from the multiple victims and the scale and nature of the offending that condign punishment was necessary and justifiable to reflect the degree of culpability on the part of the appellant and the degree of harm that was suffered by those who he indecently assaulted and our attention of course has been drawn to the victim impact statements which the court had read before coming into court today. One cannot but help be moved by the serious consequences that this appellant's offending has had on what were then young teenage women and in one case a young man.

[2] Now the sentences imposed and the structure of those sentences are helpfully set out at paragraph [7] of the decision of the Single Judge granting leave on the sentencing. In the case of the first complainant who is referred to at paragraph [7](a) of that decision, there was overall sentence in respect of the counts involving her - an overall sentence of 5 years imprisonment was imposed which was in respect of the most serious offences which were the three counts of digital penetration.

[3] We see there can be no serious question mark over the sentence that was imposed in respect of the counts involving that complainant. So far as the second complainant is concerned, who is referred to at [7](b) of the Single Judge's decision, there were no counts of digital penetration involved there. There were three counts where the appellant had rubbed the complainant's hand around his genitals and for

that he received a sentence of 4 years imprisonments which were to run concurrently with the other counts.

[4] We consider that in her case that the sentence in respect of those indecent assaults for which he received 4 years imprisonment should be reduced to one of 3½ years imprisonment. We also consider that the sentences on the first complainant and the second complainant should be made consecutive which means that the court therefore arrives at a sentence of 8½ years imprisonment. So far as the sentences in respect of the remaining complainants are concerned we again see no reason to interfere with those sentences, but we consider that it would be appropriate in this case to make those sentences concurrent with the sentence of 8½ years. Now the effect of that is, in this case, that the overall sentence is one of 8½ years as opposed to the 13 years imprisonment which was imposed by the sentencing judge.

[5] We do that recognising that there are many aggravating features in this case all of which had been properly set out in the trial judge's carefully crafted sentencing remarks. It is common case that there are no mitigating features so far as the offences are concerned and, as it has been said by the court in the course of argument and in respect of which I understand it there is no dispute, there is little, if any, by way of personal mitigation.

[6] The fact that the appellant has a clear record of course has to be set against the fact that over almost a quarter of a century the appellant was involved in indecently assaulting six complainants, five of whom were female and one of whom was male. The earliest allegation was in 1983 and the latest in 2007 and at the relevant time the complainants were teenagers and the appellant was their maths tutor. So as I say that period of time covering the various counts was almost a quarter of century.

[7] There were clearly serious breaches of trust so far as the children were concerned and so far as the parents were concerned who had engaged the appellant to provide tuition to their children, mostly in their own home. It is plain that the appellant's culpability is high and the harm suffered by the teenagers concerned has been severe. He is totally unrepentant and he has expressed no regret or remorse. Each of the complainants, all six of them, were required to give evidence and relive difficult matters in a public court. However, given his age, he is now 76 and shortly to turn 77, his medical condition, his clear record and to some extent the delay in the case, at least so far as the latter stages of the case were concerned when the initial trial had to be abandoned for a period of time when other complaints were investigated. Taking into account all of those matters, we consider that the overall sentence of 13 years did not properly reflect the principle of totality. Whilst we subject the appellant to one sentence to which I have already referred when we reduced from 4 years to 3½ years, we affirm all of the individual sentences imposed in order to produce a global sentence which reflects the totality principle and have arrived at the figure of 8½ years by the mechanism which I have earlier set out.

[8] So far as there had originally been an appeal as well against one of the conditions in the Sexual Offences Prevention Order that has not been appealed, but the appeal in respect of that was not pursued subject to the point that to the extent that we reduce the overall sentence that the SOPO should be adjusted accordingly and we see no difficulty in acceding to that aspect of the case as well. There are other ancillary orders which were imposed by the sentencing judge and they have not been appealed and they remain in force as indicated by the sentencing judge.