



JUDICIARY OF
ENGLAND AND WALES

THE HON. MRS JUSTICE WHIPPLE DBE

In the Crown Court at Southwark

R v Charles Elphicke

Sentencing Remarks of Mrs Justice Whipple

15 September 2020

Charles Elphicke, you have been convicted by the jury of three counts of sexual assault on two women. Both women worked for you. One worked in your home, looking after your children, as a nanny. The other worked as a Parliamentary researcher in your Westminster office. Both women are entitled to anonymity as the victims of sexual offending. I will refer to them as A and B. By their verdicts, the jury accepted their evidence and that is the basis of my sentence.

Count 1

Your first offence took place in June 2007. A was then about 30. She was an experienced nanny who had worked for you for 6 months. She lived with your family in the basement flat of your house.

On the night in question, your wife was away and the children, who were young then, were in bed. A was alone with you. You suggested having a drink, and initially there was friendly chat. You then turned the conversation to sexual matters, asking her what she did in bed with her boyfriend, and such like. She told you not to talk about such things; she tried to steer the conversation back towards something more normal and friendly. Shortly after, after she sat down next to you on the sofa to fill her glass at your invitation. You lunged at her and tried to kiss her, with your mouth open. She turned her head away and you kissed her cheek in what she described as “a smushy mess”. You got on top of her and put your knee between her legs so she was sprawled against the back of the sofa. You put your hand down her top and groped her breast, partly inside and partly outside her bra. Your hand made contact with her naked breast. She pushed you off and managed to escape. As she ran down the stairs towards the door to her flat, you came after her, chanting “I’m a naughty Tory”, slapping her bottom at least once as she ran away. When she locked herself in her flat, you stayed at the door asking to be let in. The jury heard how she rang her sister and boyfriend in distress. She called a taxi and she left your house.

This was a terrifying episode for A. She only returned to your house when she felt safe.

You later said to her that you had enjoyed the encounter and asked her if she wanted to do it again. She was horrified. She told you she could not work for you any more. She asked that you pay her wages for her notice period and let her leave. You agreed to this and you paid her over £3,000 in cash. You asked her not to tell your wife. She agreed to that, because she did not want to hurt your wife by telling her the truth. She left your employment, which was her home, as soon as she could and as she told the jury, the effect of the assault was that she could no longer look at your children without seeing you in their faces.

A decided to report you to the police in November 2017, when she heard your name on the radio in connection with other allegations of sexual misconduct. At that point, she realised that she no longer needed to be concerned to protect your family. And she wanted to play her part in ensuring you did not do this to anyone else.

Counts 2 and 3

Counts 2 and 3 took place in 2016, 9 years later. B was 23 when she started working for you. You were by this time an elected MP and held a position as a whip for the Government of the day. B was bright, willing and capable. This was her first proper job. She had a politics degree and wanted to work in Westminster. This was her dream job, which she had worked very hard to get.

She started working for you on 21 March 2016. By 18 April 2016 you had developed a sexual attraction for her.

Count 2 occurred on the evening of 27 April 2016 when you asked her for a drink when you were alone in your office at Portcullis House in Westminster. The drink started normally, just as a friendly chat, discussing the events of the last few weeks. Suddenly, you lunged at her. You tried to kiss her, with your mouth open; she pursed her lips against yours and described what followed as a “disgusting slobbery mess”. You put your hand down her top and groped her breast, under her clothing but over her bra. This all happened very fast. She managed to push you off and moved to the other side of the room. You approached her again and took her hands and she thought you were going to try to kiss her again. She said she needed to leave and went to the door, where she put her coat on. But you followed her and stood between her and the door. You put your hands around her waist, inside her coat, and said to her “I am so naughty sometimes, aren’t I?”. She felt disgusted. She pulled away and walked out. You left too and got the tube with her. She told the jury she was shocked and terrified by what you had done; she felt very trapped.

The next day, you asked her for coffee. It is clear you knew you had behaved wrongly because you asked her if she was going to have a go at you and whether she was cross with you. She tried to sweep this under the carpet and simply said to you that this must not happen again. She thought you had got the message. But you had not.

She was off work the next day, 29 April 2016, because it was her birthday. You asked her to meet you near your flat that morning, while your wife and children were away. She did not want to see you and she did not come.

A few days later on 4 May 2016, you called B into your private office to take some dictation. You thought everyone else had gone home. You came close to her, grabbed her hands and started stroking them. But you were interrupted by the arrival of

another employee which gave B a chance to escape. She ran for the door and the lift. You sent her a text saying “Grrrr” in frustration at having been interrupted.

On 5 May 2016, you committed the third offence, Count 3. You picked B up in your car to take her down to your constituency in Dover. Within 15 minutes of being alone with her in the car you had put your hand on her knee, over her trousers. You slid your hand up her inner thigh towards her groin area. She pushed your hand away and told you not to do that. Again, you asked her to start a sexual relationship with you and again she declined. After you persisted for a while, she said no and changed the subject. Undeterred, later that morning, you stopped off at your home in your constituency, and you asked her to rub sun cream into your face telling her that you wanted to kiss her; again, she said no.

On a further occasion on 22 June 2016, after lunch and coffee you put your hand over hers and told her you liked her; she said that she did not like you in that way. You said to her that she had been “so up for it” at the beginning but this was not true, she had never encouraged you.

This was a campaign of harassment of B. It involved planning, to get her alone with you.

After she refused your advances and you finally got the message, you started to bully and intimidate her. This was not behaviour you reserved for B, because there was evidence from other witnesses that you created a toxic atmosphere in your Westminster office for all your staff. B tried to put up with you for another few months but in the end, after yet another episode of unpleasant behaviour towards her, she decided to leave your employment. She then spoke to a female MP who put her in touch with the whips office in the House of Commons. That was where she first made her complaint in December 2016.

She took her complaint to the police in January 2017 but at that stage was unwilling to progress it. In November 2017 the police contacted her. By then she was willing to press her complaint because she was sickened at the thought you might do this to someone else.

Seriousness of Offending

Both women described very similar and shocking assaults on them. Their victim impact statements demonstrate the lasting damage done to their confidence and trust in others by your offending.

You are a sexual predator who used your success and respectability as a cover. In each case you took advantage of your position as their employer and abused their trust in you to impose on them sexually. Trust is part and parcel of an employee’s relationship with their employer. A and B both trusted you. But you got them alone with you, lured them into a false sense of security with wine and work chat, and then attacked them without warning, trying to kiss them, grabbing their breasts, trapping them beneath you. Women are entitled to feel safe at work. These women were not safe.

Then you treated what you did as a joke, saying of yourself that you were “naughty” in an attempt to trivialise your actions. You suggested to each woman that this was

something they wanted, that they had encouraged, that they had enjoyed. That was not true. They had not encouraged you or led you on.

Your behaviour was also an abuse of power. You picked on your employees, because you had influence over them and their careers, and because you knew they were unlikely to complain. In fact, neither of them did complain to start with. A was silent because she had lost her home and her job but needed you to provide a reference and money to tide her over; she also wanted the best for your family. B was silent because she wanted to carry on in her dream job and was worried that you would jeopardise her career if she offended you. (She was right; you did try to do that.) So, their disclosures only came later, in the face of other events, and after they had both stopped working for you.

You required both women to come to court and give evidence about the assaults you had made on them. That was not easy for them and they displayed great courage. They told the truth. You told a pack of lies, not just to the jury, but as became clear, to your wife, the whips and the police as well.

Financial Orders

I turn to financial matters. The prosecution seek their costs, which will otherwise fall on the public purse. You have substantial equity in your family home, which is currently up for sale. I consider it right in principle that you should contribute to the prosecution's costs. In my judgment, the sum of £35,000 is just and reasonable. You will have 12 months to pay. I do not impose a compensation order. The statutory surcharge will apply.

Sentence

As to sentence, I have taken account of all that has been said on your behalf in mitigation. I have read the many character references provided for you. I accept that you were well regarded as an MP in your former constituency. I have read both of your wife's letters to the Court. I accept that you have a particular bond with and responsibility for your 13 year old son who will suffer if you are not present day to day for him. I accept that you have lost a good career, your reputation and future prospects. I note from Dr Fieldman's report that you are undergoing psychotherapy and that you have accepted some responsibility for your actions. I accept from the Pre-Sentence Report that you have expressed remorse, and that you are not likely to offend again, but I reject the author's views of your conduct and motivation which in my judgment underplay the seriousness of these offences.

I have considered and applied the Sentencing Council's guidelines on sexual assault, on the imposition of community and custodial sentences, and on totality. I confirm two preliminaries. First, I am satisfied that the custody threshold is passed for each of these offences. Secondly, I am satisfied that consecutive sentences should be passed to reflect the offending against each of A and B.

Count 1 falls into category 2A: with respect to harm, it involved the touching of a naked breast and with respect to culpability, it involved an abuse of trust. The starting point is 2 years, within a range of 1 to 4 years' custody. The fact that A lost her job and her home and that this was an assault in the workplace are serious features of the case but in my view are aspects of the abuse of trust which is already counted. There is the personal mitigation referred to above, most significantly that at

the time of this offence, you were in your mid-30s with no previous convictions and of good character. Taking that into account, and without further adjustment, the sentence on count 1 would be 18 months imprisonment.

Counts 2 and 3 fall into category 3A: with respect to harm, both assaults were over clothing, although for Count 2 you plainly intended more by putting your hand down B's top. In relation to culpability, each was an abuse of trust of particular seriousness, because by now you were an elected representative in Parliament, in your mid-40s, with an important job and all the trappings of power and success. B was half your age, in her first job, and vulnerable to your manipulation. You preyed on her. Count 2 is the lead offence and will reflect the totality of offending against B. The mitigation, so far is consists of a lack of previous convictions and previous good character, carries little weight given your proven assault on A some years earlier. Taking account of all these factors, the sentence after trial on Count 2, without any further adjustment, would be 12 months' imprisonment, with the same sentence to run concurrently on Count 3.

I adjust for totality, and to recognise the additional burden of a sentence of imprisonment during the Covid pandemic, see *R v Manning* [2020] EWCA Crim 592. The resulting total sentence is one of 2 years, made up of 14 months on count 1, 10 months on count 2 to run consecutively, and 10 months on count 3 to run concurrently with the sentence on count 2.

I have considered carefully whether I should suspend this sentence. I recognise your personal mitigation. But bearing in mind the gross breach of your position of power and abuse of your employees' trust, I am satisfied that appropriate punishment can only be achieved by immediate custody.

Charles Elphicke, I sentence you to 2 years imprisonment. You will serve up to half of that term. Then you will be released on licence. If you offend during the period of your licence, you can be recalled to prison to serve the remainder of the term. You are automatically subject to the notification requirements, requiring you to notify the police of specified information for 10 years.