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IDENTIFYING PARTICULARS OF COMPLAINANTS PROHIBITED BY  
SS 203 AND 204 OF THE CRIMINAL PROCEDURE ACT 2011.**

**IN THE COURT OF APPEAL OF NEW ZEALAND**

**CA491/2015  
[2016] NZCA 377**

BETWEEN                      ANDREW WILSON  
   Appellant

AND                              THE QUEEN  
   Respondent

Hearing:                      2 June 2016 (further submissions received 10 June 2016)

Court:                         Ellen France P, Clifford and Katz JJ

Counsel:                     E J Forster for Appellant  
   D J Boldt for Respondent

Judgment:                   8 August 2016 at 10 am

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**JUDGMENT OF THE COURT**

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**A        An extension of time to file the notice of appeal is granted.**

**B        The appeals against conviction and sentence are dismissed.**

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**REASONS OF THE COURT**

(Given by Clifford J)

**Introduction**

[1]        The appellant, Andrew Wilson, pleaded guilty to three charges of sexual violation of OG, and one of indecent assault and one of attempted taking away with

intent to have sexual connection in relation to RO. The victims were young girls. OG was between six and 12 years old when Mr Wilson offended against her. RO was six. Mr Wilson had a history of similar offending. Mr Wilson was convicted and sentenced to preventive detention with a minimum period of imprisonment of five years and five months.<sup>1</sup>

[2] Mr Wilson now appeals his conviction and sentence. He appeals his conviction on the basis that his trial counsel, Mr Nabney, did not advise him properly when he entered his guilty pleas and that, due to ill health, Mr Wilson was in no position to make an informed decision as to whether to do so.

[3] Mr Wilson says the sentencing Judge, Gilbert J, was wrong to impose preventive detention. His offending history is comparatively modest compared to others who have received preventive detention. The Judge also failed to consider the significance of the fact that one of his convictions was a second strike offence, so that should he commit a further strike offence he would be sentenced to the statutory maximum period of imprisonment without parole.

## **Facts**

[4] It is necessary to put Mr Wilson's challenged conviction and sentence into context.

[5] In January 2006, Mr Wilson pleaded guilty to one charge of indecent assault on a girl under 12 years of age. That girl was OG, who was then aged six years old. Mr Wilson had become a close friend of OG's mother. He was a regular visitor to the house and on occasion stayed overnight. In 2005, he slept with OG in the mother's bed. In the early hours of the morning he woke up sexually aroused, pulled the front of OG's pyjama bottoms down, parted her legs and exposed her vagina. He then kissed her vagina twice as she continued to sleep. He then got out of the bed, kissed OG goodnight and left the room. OG never woke up. Several hours later, Mr Wilson told OG's mother what he had done. He also told a member of the church they both went to. The police were involved, he pleaded guilty to the charge,

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<sup>1</sup> *R v Wilson* [2015] NZHC 1603.

having admitted kissing OG on the vagina twice. Mr Wilson was 32 at the time. Without Mr Wilson's admission of what he had done, there would have been no prosecution. Mr Wilson admitted he needed help for his problem. By the time of his sentencing, Mr Wilson had taken steps towards obtaining treatment for his behaviour. He was sentenced to supervision and community work.<sup>2</sup>

[6] In March 2011, Mr Wilson pleaded guilty to one charge of offensive behaviour. Mr Wilson had approached two young children, a boy and a girl, in a video store. Mr Wilson did not know these children. He spoke to them for a period of some 10 minutes. He began to play with the young girl's hair and then crouched down and began to hug and kiss the young girl. He held her in a prolonged embrace during which he put his hand around her waist. Mr Wilson's behaviour, which is described as having occurred behind a display area in the store, was subsequently observed on closed-circuit television footage. When confronted with that evidence, Mr Wilson admitted that he had hugged and kissed the young girl and that his actions could be seen as inappropriate. Mr Wilson, who was 37 at that time, was fined \$250.

[7] In December 2012, Mr Wilson was convicted on three charges of doing an indecent act on a girl under 12, and two of meeting with a young person following sexual grooming. His victims on that occasion were two girls aged 10, daughters of a friend Mr Wilson had met at the local church he attended intermittently. One day in November the previous year, Mr Wilson joined the mother and the two girls on a day outing. When they returned to the mother's address Mr Wilson, with the agreement of the mother, consumed alcohol and stayed the night. During the course of the evening, Mr Wilson embraced both girls up to eight times each, kissing them on their lips and faces.

[8] At one point, the mother left the room for half an hour to talk on the phone. Whilst the mother was absent, Mr Wilson told the girls they had nice bodies and should consider nude modelling and putting nude photographs of themselves onto internet websites. Mr Wilson told the girls that other children were doing that and making a lot of money. He offered to take nude photographs to help them set up

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<sup>2</sup> *New Zealand Police v Wilson* DC Tauranga CRI-2006-070-571,5937, 27 January 2006.

such a website, and to print off pictures of other young children posing nude to show the girls which positions they could pose in.

[9] Later in the evening, Mr Wilson approached one of his victims from behind and embraced her, placing his arms around her body and moving one arm under her pyjama top. After the girls had gone to bed in their mother's room, and whilst the mother was speaking with a neighbour, Mr Wilson went into the bedroom and kissed them both on their faces with an open mouth. The mother told him to sleep in the spare room, but he later appeared at the bedroom door asking if the mother and her daughters minded if he jumped into bed with them. The mother told him to get out. When spoken to by the police, Mr Wilson said he was heavily intoxicated at the time.

[10] On that occasion, Mr Wilson was found guilty by a jury. He was sentenced to 16 months' imprisonment. Special release conditions were imposed requiring him to undertake psychological assessment, counselling or treatment as directed.<sup>3</sup>

[11] In April 2013, OG, who was by then 14, made further complaints against Mr Wilson. She was evidentially interviewed. Her complaints related to the period of time between 2005 and 2010 when, notwithstanding his 2006 conviction, Mr Wilson had been in a relationship with her mother.

[12] As a result of that complaint, Mr Wilson faced six charges: three specific charges, one of indecent assault and two of sexual violation; and three representative charges, two of indecent assault and one of sexual violation. All offending was alleged to have occurred between 1 January 2005 and 1 December 2010. Mr Wilson appeared in the District Court on those charges for the first time on 9 January 2014. On 31 January 2014, he pleaded not guilty and elected trial by jury. Mr Wilson would appear to have been on bail at the time.

[13] On 8 February 2014, Mr Wilson was observed by several adult witnesses behaving inappropriately in a public park. He approached a young boy who was sitting in a car. He spoke to him, telling the young boy he would push him around

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<sup>3</sup> *R v Wilson* DC Tauranga CRI-2012-070-341, 12 December 2012.

on his, that is, Mr Wilson's, bike. The young boy agreed. Mr Wilson was observed putting his hand between the young boy's bottom and the seat of the bike, and on his pubic area, as he pushed him around on his bike. One of the witnesses telephoned the police. The young boy left the park with his caregivers prior to the police being able to speak to him. His identity is not, therefore, known.

[14] Mr Wilson, who was unaware of the attention he had attracted, then approached a six-year-old girl (RO). Whilst helping her onto a flying fox, he put his hand on her bottom and on her pubic area. Mr Wilson then took the girl from the flying fox and, holding her hand, began to walk with her away from the park.

[15] At that point, the adult witnesses became increasingly concerned for the girl's safety. They ran over and took the girl away from Mr Wilson. Mr Wilson immediately left the park. He was subsequently stopped by the police and arrested.

[16] As a result of those events, Mr Wilson was charged with two counts of indecent assault and one of attempting to take away a person with intent to have sexual connection or, in the alternative, of taking away a young person. Once those charges were laid, Mr Wilson was remanded in custody.

[17] The Crown subsequently sought joinder of the two sets of charges, and gave notice that, at the joined trial, it wished to rely on evidence of the 2006 and 2012 convictions as additional propensity evidence. Judge Marshall held the 2012 sexual grooming convictions relating to the discussions of nude photographs with the two girls were inadmissible because the convictions would have little probative value and would be unfairly prejudicial to Mr Wilson. On the basis that the other convictions and the two sets of charges constituted admissible propensity evidence amongst themselves, the applications were otherwise successful, notwithstanding Mr Wilson's opposition.<sup>4</sup>

[18] By the time of his trial in November 2014, Mr Wilson faced a total of 10 charges in all:

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<sup>4</sup> *R v Wilson* DC Tauranga CRI-2014-070-461, 16 April 2014.

- (a) indecently assaulting a child under 12 (OG) between 1 January 2004 and 4 October 2006;
- (b) sexual violation of OG by unlawful sexual connection (digital penetration) between 1 January 2004 and 4 October 2006;
- (c) sexual violation of OG by unlawful sexual connection (oral violation) between 1 January 2005 and 1 December 2010;
- (d) indecent assault of OG (kissing and/or touching) between 1 January 2005 and 3 October 2010;
- (e) a representative charge of sexual violation of OG by unlawful sexual connection (digital penetration) between 1 January 2005 and 3 October 2010;
- (f) a representative charge of indecent assault of OG (kissing and/or touching) between 1 January 2005 and 3 October 2010;
- (g) indecent assault of an unknown child under 12 years (putting hand under and/or between the buttocks and pubic area) on 8 February 2014;
- (h) indecent assault of a child under 12 years (RO) (touching the buttocks and pubic area) on 8 February 2014;
- (i) attempting to take away RO with intent to have sexual connection on 8 February 2014; and, in the alternative,
- (j) unlawfully enticing or taking away RO on 8 February 2014.

[19] Shortly after the beginning of Mr Wilson's trial, at which the Crown made a forceful opening, a juror communicated with the Judge. The juror said she was a secondary school teacher. She did not feel she would be able to sit through the evidence with an open mind. The Judge initially had it in mind to discharge the juror

and continue the trial. Following submissions from Mr Nabney, the Judge agreed that the more appropriate course of action was to discharge the whole jury, and commence the trial afresh the following day.<sup>5</sup>

[20] Mr Nabney met with Mr Wilson that afternoon. One of the matters discussed was a possible plea arrangement. Mr Nabney's advice was that, in his view, any plea arrangement would require pleas to sexual violation charges reflecting the offending against OG, and to at least one of the indecent assault charges relating to the offending at the park, as that offending would affect the second strike. Mr Wilson was left to think about the possibility overnight. It was to be discussed again the next morning.

[21] The next morning, Mr Nabney met with Mr Wilson at approximately 9.30 am. Mr Wilson asked Mr Nabney what might be required to resolve matters. Following that conversation, Mr Nabney spoke with the Crown prosecutor, Ms O'Brien. As Mr Nabney had predicted, the Crown were prepared to accept guilty pleas from Mr Wilson to the three charges of sexual violation by unlawful sexual connection of OG, and to the charges involving RO of indecent assault and attempting to take away for sexual connection. The other charges would be dropped. Mr Wilson agreed with that approach, and initialled the charge sheet reflecting his willingness to plead guilty to those five charges. Mr Wilson then entered guilty pleas. The Judge, of his own motion, called for a report so that preventive detention could be considered. The prosecutor had earlier told Mr Nabney that the Crown was unlikely to seek preventive detention, and Mr Nabney had advised Mr Wilson of that.

[22] Sentencing was set down for 18 December 2014. The Crown filed submissions dated 4 December 2014. Although preventive detention was referred to in those submissions, the Crown did not actively seek that sentence. On 18 December 2014, the Crown confirmed that it did not seek preventive detention. It had reached that position by reference to the possibility of more intensive treatment, the prospect of an extended supervision order and the ability to assess actual risk

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<sup>5</sup> *R v Wilson* DC Tauranga CRI-2014-070-461, 10 November 2014.

later in a finite sentence. The Judge nevertheless believed preventive detention should be considered and, on that basis, declined jurisdiction.<sup>6</sup>

[23] Before the High Court sentencing hearing, a report was made by Serco, as operator of the remand prison, of material that had been found in Mr Wilson's cell. That material comprised:

- (a) a hand-drawn sketch of a male having intercourse with a young female and a handwritten comment that is only partly legible but that appears to read "Fucking my 5 y.o. daughter before moving onto her yummy ... sister";
- (b) four sketches, in colour of pre-pubescent girls with their clothing to one side to display their vaginas and undeveloped breasts;
- (c) a condom packet photo;
- (d) a series of photos of young girls that appear to have been taken from magazines such as *Woman's Day*, including one of a celebrity's young daughter; and
- (e) two pages of photos referencing the Likewise Gentlemen's Club and photos of pre-pubescent girls, in some cases that appear to be twins in various states of dress/undress.

[24] In that report, Serco recorded that it had information Mr Wilson had been observed masturbating over those pictures.

[25] Mr Wilson was sentenced in the High Court by Gilbert J on 9 July 2015. Two health assessment reports under s 88 of the Sentencing Act 2002, prepared in December 2014 and May to June 2015 respectively, were before the Court. In summary, both reports assessed Mr Wilson as having a high risk of sexual re-offending of a similar nature to the offending for which he was to be sentenced.

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<sup>6</sup> *R v Wilson* DC Tauranga CRI-2014-070-461, 18 December 2014.



Both reports noted that Mr Wilson had not completed appropriate, high-intensity treatment to address his sexual offending. Nor had he had an adequate opportunity to address his problem with alcohol, which had generally been associated with his sexual offending. He was seen as being likely to benefit from such treatment.

### **Conviction appeal**

[26] Mr Wilson filed an affidavit in support of his appeal, and was cross-examined. In that affidavit, he referred to having had a particularly uncomfortable night in the police cells on the evening before the commencement of his trial. Detained people were singing loudly, kicking doors and yelling. The police cell mattress was uncomfortable. He was anxious about the court case the following day. As a result, he said he did not get any sleep.

[27] The next night, after the first jury had been discharged and before his trial was scheduled to restart, the conditions in the police cells were, he said, even worse. In addition to the noise, he had been fed a microwave dinner that was difficult to digest and had made him physically sick.

[28] He confirmed asking Mr Nabney that morning if he could get a favourable plea deal, the outcome of Mr Nabney's discussions with the Crown prosecutor, and his decision to enter a guilty plea. He said:

The combination of the lack of sleep, the trauma of what had happened in Court, being sick and what I perceived as my own lawyer trying to convince me to plead guilty, I broke and accepted the plea deal.

[29] He said he immediately regretted doing so. Given his obvious vulnerability, Mr Nabney should have asked for time for him to consider his plea. The first time he heard of preventive detention was when he was remanded in custody for the pre-sentence report. He said Mr Nabney had not told him he could seek leave to vacate his plea before sentencing.

[30] A guilty plea does not bar an appeal against conviction. Nevertheless, and as this Court observed in *R v Le Page*:<sup>7</sup>

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<sup>7</sup> *R v Le Page* [2005] 2 NZLR 845 (CA) at [16].

... it is only in exceptional circumstances that an appeal against conviction will be entertained following entry of a plea of guilty. An appellant must show that a miscarriage of justice will result if his conviction is not overturned. Where the appellant fully appreciated the merits of his position, and made an informed decision to plead guilty, the conviction cannot be impugned. These principles find expression in numerous decisions of this Court, of which *R v Stretch* [1982] 1 NZLR 225 (CA) and *R v Ripia* [1985] 1 NZLR 122 (CA) are examples.

[31] A miscarriage of justice may be indicated in a number of situations, including where the appellant did not appreciate the nature of, or did not intend to plead guilty to, a particular charge.<sup>8</sup> A further situation would be where trial counsel:<sup>9</sup>

... errs in his or her advice to an accused as to the non-availability of certain defences, or outcomes, or if counsel acts so as to wrongly, and perhaps negligently, induce a decision on the part of a client to plead guilty under the mistaken belief or assumption that no tenable defence existed or could be advanced.

[32] We are satisfied that neither of those situations exists here, and that Mr Wilson's conviction does not represent a miscarriage of justice.

[33] We do not accept Mr Wilson's criticisms of the conduct of his trial counsel, Mr Nabney. Mr Nabney had prepared carefully for Mr Wilson's trial. He had prepared a detailed brief of evidence. That brief reflected the basis upon which Mr Wilson says he wished to defend the charges against him. We accept Mr Nabney's evidence that there was nothing unusual or untoward in Mr Wilson's physical state on the morning he entered his guilty plea. We are satisfied that Mr Nabney acted on Mr Wilson's instructions in discussing the possibility of guilty pleas with the prosecutor, and settling the terms on which Mr Wilson subsequently entered those pleas.

[34] Mr Nabney had, as he confirmed in his affidavit, advised Mr Wilson before the trial that the charges would be difficult to defend, particularly given the pre-trial propensity ruling. Mr Nabney made a careful file note that day recording his discussions with Mr Wilson about the guilty pleas. In cross-examination Mr Nabney accepted he would have repeated his advice about the strength of the case to Mr Wilson at the time they were discussing the entry of guilty pleas. He confirmed

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<sup>8</sup> At [17].

<sup>9</sup> *R v Merrilees* [2009] NZCA 59 at [34].

that he assessed the “spirited” Crown opening had had an effect on Mr Wilson. He had advised Mr Wilson not to place too much weight on that opening, because it was the evidence at trial and then the closing addresses on which the jury’s decision would be more broadly based. As Mr Nabney noted in his affidavit and in his evidence before us, and as Mr Wilson himself confirmed, it was Mr Wilson who, on the morning that he entered his guilty pleas, confirmed to Mr Nabney that he wished Mr Nabney to raise that possibility with the prosecutor. We are satisfied that Mr Nabney did not place any improper pressure on Mr Wilson to plead guilty.

[35] Mr Wilson also said that Mr Nabney should have sought a sentence indication so that Mr Wilson could make an informed decision to plead. We see nothing in that point. In addition, Mr Nabney said he had a further discussion with Mr Wilson, after Mr Nabney received the pre-sentence report. Mr Nabney did so because he was concerned that some of the comments that Mr Wilson had made appeared to indicate that he was wishing to resile from his pleas. Mr Nabney told us that he confirmed with Mr Wilson that Mr Wilson did not wish to do that.

[36] Mr Wilson’s appeal against his conviction is, therefore, dismissed.

### **Sentence appeal**

[37] We consider that Gilbert J’s sentencing notes establish that he undertook a very careful assessment of Mr Wilson’s sentence. In doing so, he correctly reflected all relevant sentencing principles and practices. In particular, he carefully assessed the strike warnings that applied to Mr Wilson. He said:<sup>10</sup>

[23] The offending against Victim 1 for which you are now to be sentenced took place before this warning was given and the charge of abduction in relation to Victim 2 was an attempt and therefore outside the scope of the three strikes regime. This means that you will not be required to serve the full end sentence in relation to these offences without parole. However, you will be required to serve the sentence that I impose on you for indecently assaulting Victim 2 without parole. This will not have any practical effect because the sentence for that offence will be significantly less than the penalty imposed for your offending against Victim 1.

[24] However, the fact that you offended against Victim 2 after you were given your first warning is significant. You were warned orally and in

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<sup>10</sup> *R v Wilson*, above n 1.

writing by the Judge in December 2012 that if you committed any further serious violent offences after that date, you would be required to serve any sentence of imprisonment without parole. Despite this warning, and despite the treatment that you received throughout 2013, you offended against Victim 2 in February 2014. This was one month after you were granted bail for your offending against Victim 1.

[38] That analysis cannot be challenged.

[39] For the offending against OG, the lead offence, the Judge set a starting point of nine years and six months' imprisonment, that is at the lower end of unlawful sexual connection band three from the tariff judgment of this Court in *R v AM (CA27/2009)*.<sup>11</sup> He fixed an uplift of 12 months for Mr Wilson's offending against RO, and a further uplift of 18 months to reflect Mr Wilson's previous, similar, offending and that the offending against RO occurred after he had been given his first strike warning and after he had been released on bail for the offending against OG. So, before considering Mr Wilson's guilty plea, the Judge had arrived at a sentence of 12 years. Notwithstanding that the plea came very late, the Judge allowed Mr Wilson a discount of 10 per cent because his victims had been spared the ordeal of having to give evidence and because of a belated acknowledgement of some wrongdoing.

[40] The finite sentence sought on appeal and the minimum period of imprisonment accepted as being appropriate both equate to those which the Judge determined himself. Moreover, in sentencing Mr Wilson to preventive detention the Judge set the same minimum period of imprisonment that would have applied if Mr Wilson had been subject to a finite sentence.

[41] At the hearing of Mr Wilson's appeal, it became apparent that — notwithstanding the charges that were dropped when Mr Wilson entered his guilty pleas — the narrative of the facts relating to those charges remained in the statement of facts by reference to which the Judge determined those finite sentences. We gave counsel the opportunity to provide written submissions on that matter. Mr Wilson's instructions were that he had never agreed to that: moreover he was concerned that he had not, therefore, got the full benefit he should have from his guilty pleas. For

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<sup>11</sup> *R v AM (CA27/2009)* [2010] NZCA 114, [2010] 2 NZLR 750 at [113] and [120].

the Crown, the submission was that Mr Nabney's evidence was that he had discussed that matter with Mr Wilson.

[42] It is, we acknowledge, a little unusual for the facts relating to withdrawn charges to remain in the summary of facts by reference to which a guilty plea or pleas will be entered. However, here we are satisfied that the seriousness of the offending to which Mr Wilson pleaded guilty — any other aspects of the original narrative of facts aside — fully justified those finite sentences.

[43] In our view, there cannot be any challenge to the starting and end point finite sentences the Judge arrived at. Nor can there be any challenge to the minimum period of imprisonment.

[44] The issue for us is the significance of the fact that Mr Wilson had not undertaken appropriate treatment, a factor that had initially been recognised by the Crown as indicating that a sentence of preventive detention was not required.

[45] In *Kumar v R*, this Court discussed the standard for appellate review of preventive detention decisions.<sup>12</sup> The Court noted that, whilst it routinely characterises sentencing decisions as discretionary in nature, that did not signal it was invoking the *May v May* approach.<sup>13</sup> The characterisation of sentencing decisions as discretionary recognises that, to reach the end result, the sentencing court must balance numerous and sometimes conflicting considerations, and that the range of outcomes within which reasonable disagreement is possible is frequently wide. It is also necessary, although not always easy, to distinguish an evaluative decision from a discretionary one.<sup>14</sup> Specifically as regards a decision to impose preventive detention, the criteria for the sentence having been met, the Judge has what has been described as a residual discretion to choose not to impose preventive detention.<sup>15</sup>

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<sup>12</sup> *Kumar v R* [2015] NZCA 460.

<sup>13</sup> At [81]; citing *May v May* (1982) 1 NZFLR 165 (CA).

<sup>14</sup> At [80].

<sup>15</sup> At [83].

[46] Here, having found the preconditions met, the Judge considered the significance of the opportunities Mr Wilson had already had for treatment very carefully. He said:

[79] Following your sentence in January 2006 for your offending against Victim 1, you received 12 treatment sessions with a psychologist from 12 April 2006 to 31 July 2006. You attended three further treatment sessions with a psychologist in 2007. Despite this, you continued to offend against Victim 1 through until October 2010 when your relationship with her mother terminated.

[80] You attended three more treatment sessions with a psychologist in 2011 and a further 11 treatment sessions to address your offence related needs in 2013.

[81] In all, you have had 29 treatment sessions from April 2006 to the end of 2013. However, this has not stopped your offending. Despite receiving a first strike warning in December 2012, you offended against Victim 2 in early February 2014, not long after your release from prison and almost immediately after you were granted bail for the present offending. You were not even deterred by the presence of adults at the time of this further offending. The materials found in your prison cell indicate that all efforts to address the cause of your offending have failed.

[82] As Mr Nabney points out, you have not yet participated in high intensity sex offender treatment and have not addressed your underlying alcohol problems. There remains the possibility that this could reduce the current high risk of re-offending.

[83] However, I am concerned that you have not yet accepted that you have a serious problem that needs to be addressed. Ms Shephard reports that you have limited insight into your offending. You told her that the majority of your sexual offending convictions were due to others falsifying evidence against you and you admitted to only one of the present offences and one of the previous sex offences. Ms Shephard reports that you “extensively externalised blame” and have “a well-entrenched pattern of avoiding or limiting your responsibility for your offending.” This is consistent with your very late guilty plea.

[47] In our view, that assessment by the Judge cannot be challenged. If anything, some aspects of the way in which Mr Wilson has pursued this appeal confirm the Judge’s concerns. When interviewed by the psychiatrists prior to sentencing, whilst Mr Wilson denied the bulk of his offending, he accepted that he had, as alleged, kissed OG on the vagina when she was in the bath with him. He now denies that. He now says, also, that the letter of remorse he wrote to the Judge at the time of his High Court sentencing was, in effect, a lie. He now says he only did that because he thought it might give him an advantage in the sentencing process.

[48] We comment that sentences of preventive detention will not, in our assessment, be common in circumstances such as these. But, as this Court has held, a sentence of preventive detention is not a sentence of last resort.<sup>16</sup> Here, the risk of re-offending is undoubtedly very serious. The very disturbing material found in Mr Wilson's cell starkly confirms that. Mr Wilson continues to deny responsibility for his offending to date. We concur with the Judge's closing remarks when sentencing Mr Wilson to preventive detention:<sup>17</sup>

Given your continuing lack of insight and your tendency to minimise your offending, I consider that your high risk of further sexual offending against very young and vulnerable females is best managed by a sentence of preventive detention. This will provide you with the incentive you need to engage fully in therapeutic treatment. For such treatment to succeed, you will first need to acknowledge your offending and accept that you need to address the underlying causes of it. You have not yet reached that point. I hope that you will take full advantage of the opportunities for treatment that will be offered so that you can regain your liberty. Your future is very much in your own hands.

[49] Mr Wilson's appeal against his sentence of preventive detention is dismissed.

### **Outcome**

[50] An extension of time to file the notice of appeal is granted and the appeals against sentence and conviction are dismissed.

Solicitors:  
Crown Law Office, Wellington for Respondent

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<sup>16</sup> *R v C* [2003] 1 NZLR 30 (CA) at [6].

<sup>17</sup> *R v Wilson*, above n 1, at [89].