

COURT OF APPEAL

**MULLINS P
DOYLE JA
SMITH J**

**CA No 121 of 2026
DC No 210 of 2026**

THE KING

v

SAVAGE, Jesse Tyler

Applicant

BRISBANE

FRIDAY, 21 AUGUST 2026

JUDGMENT

- [1] **MULLINS P:** On 21 May 2026, the applicant pleaded guilty in the District Court to one count of using electronic communication with intent to procure a child under 16 to engage in a sexual act, contrary to s 218A(1) of the *Criminal Code* (Qld). The maximum penalty for that offence is 10 years' imprisonment. The period particularised for the offending was four months between 31 July 2024 and 1 January 2025. The applicant was sentenced to imprisonment for two years to be suspended after serving six months with an operational period of two years. He applies for leave to appeal against the sentence on the ground it is manifestly excessive.

Circumstances of the offending

- [2] There was an agreed statement of facts. The applicant was 23 years old and a coach at a local rugby league club (the club) when he became aware of the complainant through social media. They first met in person at a training competition around

August to September 2024 when the complainant was 14 years old. On that day the applicant saw one of the complainant's games. Her sister played in the applicant's team and the applicant stood with the complainant whilst she was watching her sister's game. The applicant then commenced messaging her about joining the club.

- [3] On the day following the competition the applicant commented on a picture of the complainant on Instagram and, at the applicant's suggestion, their messaging moved to Snapchat. During their Snapchat messages, the applicant told the complainant she was "hot" and "beautiful". The complainant sent the applicant a selfie on Snapchat before she got into the shower that showed her shoulders up. After receiving that image, the applicant repeatedly asked for indecent photographs which the complainant refused to do. The next day, the applicant continued to request indecent photographs or videos from the complainant and offered to send something first. He sent a picture of his penis which the complainant recorded by making a "sticker" on Snapchat with that picture which she was later able to provide to police. The applicant then told her it was "her turn" and requested "just one picture". She sent a picture of her buttocks when she was wearing g-string underwear. The applicant complimented her photo. A few days later, the applicant messaged the complainant on Snapchat requesting indecent photographs or videos from her. She refused.

- [4] The applicant repeatedly begged the complainant to send him things. She continued to refuse but, in response to his repeated requests and feeling pressured, she sent him a Snapchat picture of her breasts. He messaged a compliment about her breasts. He then sent a video of himself masturbating, to the point of ejaculation, in the shower. The complainant told police he continued to message her "every night" asking her to send him indecent photographs or videos. At one point during the period September to December 2024 the applicant messaged the complainant on Snapchat that he was "jerking off". He took a screenshot of pornography involving an adult female performing oral sex on an adult male and sent it to the complainant.

- [5] The complainant removed the applicant on Snapchat in late 2024. By the end of the period particularised for the offending, the complainant was 15 years old. She disclosed the offending to her mother, her sister who played in the applicant's team and her friends in early 2025. Her mother reported the offending to police. The complainant provided a statement to police in March 2025. The applicant was charged on 30 March 2025.

Applicant's antecedents

- [6] The applicant had no prior criminal convictions. He was educated to year 12. He obtained a carpentry apprenticeship but then moved into the air-conditioning industry until he was made redundant. He obtained paid work in before and after school care. He had been a volunteer coach of rugby league since the age of 15 years. He held a Blue Card in order to undertake both working in out of hours care and coaching. After he lost both those positions on being charged with the subject offence and lost his Blue Card, he obtained work in warehousing. He has a supportive family, many of whom provided references for the purpose of the sentencing. The applicant expressed his remorse to some of those referees which was acknowledged in the references. The applicant wrote a letter of apology to the complainant in which he showed some insight into the seriousness of his offending.
- [7] After being charged, his mental health deteriorated and he attended on a psychologist for six sessions between 17 April and 30 June 2025. He resumed therapy with a different psychologist on 28 April 2026 and had also attended on 13 May 2026.

Sentencing remarks

- [8] Apart from summarising the circumstances of the offending and the applicant's antecedents, the sentencing remarks included the following.
- [9] The applicant's guilty plea was timely and was taken into account in his favour. The applicant was not in a position of trust with respect to the complainant, as he was not her coach, and his meeting her in person was opportunistic. Primacy must be given to the effect of the sentence on the complainant which had been significant. She provided a letter to the court about feeling unsafe and anxious and the offending had affected her confidence.
- [10] After summarising the significant negative effects on the applicant on being charged with the offence, particularly in respect of the applicant's mental health, the sentencing judge observed:

“What is particularly concerning, though, is that you were in a trusted position coaching children and you very quickly and persistently over a reasonably lengthy period engaged in this conduct without giving any thought to her age, the impact on her, or the appropriateness of what you were doing. It was predatory.”

- [11] Primacy must be given to deterrence. Personal deterrence was important because the applicant engaged in the conduct when he was in a relationship with another woman and the conduct occurred over a significant period and persistently. General deterrence also loomed large in the exercise of the sentencing discretion when the offending was through the use of social media platforms like Snapchat which delete messages. Denunciation was also important in condemning the conduct on behalf of the community.
- [12] The sentencing judge rejected the prosecutor's submission that the applicant's prior good character assisted him to commit the offence, so that s 9(6A) of the *Penalties and Sentences Act 1992* (Qld) (Act) did not apply. The applicant's previously good character was therefore a mitigating factor.
- [13] The combination of the applicant's remorse and insight, youth, lack of previous criminal history and prospects of rehabilitation did not warrant a finding of exceptional circumstances for the purpose of s 9(4)(c) of the Act. That combination of features was often present in cases with respect to persons who offend against children. The purpose of sentencing must include protecting children and deterring those who might contemplate engaging in the same sort of activity with children. It was the predatory nature of the applicant's offending and the period over which it occurred that warranted a sentence of imprisonment of two years suspended after the applicant had served six months in actual custody for an operational period of two years. The sentence was suspended at an earlier time than the sentencing judge otherwise would have done to take account of the applicant's mitigating factors.

Is the sentence manifestly excessive?

- [14] The applicant relies on the comparable authorities that were before the sentencing judge, namely *R v Burdon; Ex parte Attorney-General (Qld)* (2005) 153 A Crim R 104, *R v Goodall* [2013] QCA 72, *R v Squires* [2018] QCA 8 and *R v Mellor* [2019] QCA 298, to submit that they did not justify the imposition of a head sentence of two years' imprisonment for the applicant's offending or a custodial component to the extent of six months.
- [15] When s 218A of the *Code* was enacted, the maximum penalty for an offence under s 218A(1) was five years' imprisonment. That was the maximum that applied to the offending in *Burdon* and *Goodall*. The maximum penalty for an offence under s 218A(1) was increased to 10 years' imprisonment with effect from 29 April 2013.

- [16] The offender in *Burdon* pleaded guilty to the same offence to which the applicant pleaded guilty and an additional offence under then s 218A(1)(b) for which the maximum penalty was also five years' imprisonment of using the internet to expose a person he believed was under the age of 16 years to an indecent matter. He was sentenced for the respective offences to 18 months' imprisonment wholly suspended for an operational period of two years and 240 hours community service. The Attorney-General was unsuccessful on an appeal on the ground that the sentence was manifestly inadequate in that some period of actual imprisonment should have been ordered to be served. The offender was 50 years old when he made contact through an internet chat room with a person using the name that suggested she was a 13 year old girl but who was a police officer. They commenced chatting. He sent her a photo of himself and of his erect penis about nine days later. He continued to discuss sexual matters in the chat room with her. He arranged to meet her at McDonald's just over three weeks after the chat commenced. He was arrested and admitted that he believed the person with whom he was chatting was 13 or 14 years old. The applicant's offending was more persistent and over a much longer period than the offending in *Burdon*.
- [17] The offender in *Goodall* pleaded guilty to three counts of using electronic communications to expose a child under 16 years of age to indecent matter. He was sentenced to two years' imprisonment with a parole eligibility date set after serving eight months in custody. The focus of the submissions on the application for leave to appeal was the timing of the parole eligibility date and whether a suspended sentence after a lesser period in custody was more appropriate. The appeal was successful in relation to the parole eligibility date. The sentence imposed on each of counts 1 and 2 remained two years' imprisonment which (at [16]) was justified where there was a real child complainant but suspended after serving a period of six months for an operational period of three years. The sentence imposed for count 3 was varied to six months' imprisonment to be followed by probation for one year. The facts in *Goodall* were unusual in that a 12 year old boy complainant was using an adult dating website and contacted the offender whose profile falsely indicated he was 18 years old but he was, in fact, 46 to 47 years old during the three months over which the offences occurred. They chatted with each other on about five occasions, three of which involved mutual webcam masturbation. The offender believed the complainant was 14 or 15 years old. The offender had not engaged in predatory

behaviour, at least initially, as he had been sought out by the complainant. The offender had no prior criminal history.

- [18] The focus of the submissions on the sentence leave application in *Squires* was on substituting a sentence that did not require the recording of a conviction. The sentencing judge had found exceptional circumstances existed which meant that under s 9(4)(c) of the Act a sentence involving actual custody was not required. The offender had pleaded guilty to an offence pursuant to s 218A(1) of the *Code* and was sentenced to six months' imprisonment wholly suspended for an operational period of three years. He was 20 years old during the period of almost eight months over which the offending occurred. The complainant was aged 14 to 15 years. The offending involved sexualised conversations on Facebook and by telephone and progressed to the exchange of pornographic photographs. The total time of all the communications was about 10 minutes but it was persistent and ended only when the complainant's father intervened. The offender had no prior criminal history, entered an early plea of guilty, was remorseful, and had good prospects of rehabilitation. He had been diagnosed with depression at the age of 11 years and been receiving treatment for that condition. There was no victim impact statement. The sentencing judge had described the offending as not at the more serious end. The applicant accepts the offending in *Squires* was less serious than the subject offence. It was not described as predatory which was a relevant feature of the applicant's offending. In addition, the offender's personal circumstances were more favourable to a beneficial exercise of discretion in both the sentencing structure and the length of the sentence. In any case, the length of the suspended term of imprisonment was not the issue.
- [19] The offender in *Mellor* was aged 20 years when he offended. He pleaded guilty to two counts of using electronic communication to procure a child under 16 and one count of grooming a child under 16. He was sentenced to 12 months' imprisonment for each of the electronic communication counts and a concurrent sentence of six months' imprisonment for the grooming count. The sentences of imprisonment were suspended after the offender had served four months in custody for an operational period of three years. The focus of submissions on the appeal was that the sentencing judge should have found that exceptional circumstances existed justifying the imposition of a non-custodial sentence. The male complainant was aged 13 to 14 years and had met the offender who was a trainer at the complainant's football club. The first s 218A(1) offence was committed over a period of one month where innocent communications between them changed to communications with sexual content and ultimately the offender propositioned the complainant to try sexual acts to which the complainant did not respond. The second s 218A(1) offence was committed a couple of months later over another period of one month when the

offender initiated contact again with the complainant about football but then turned to sexual matters during which the offender expressed his sexual attraction to the complainant. On five occasions, he asked the complainant to send him photographs of his penis which the complainant refused to do. The offender offered money to the complainant as an incentive. The offender sent the complainant a photograph of his own erect penis. The offender had a prior criminal history concerning contraventions of a domestic violence order for which he was on probation at the time he committed the sexual offences. He had an alcohol and substance abuse problem. Before sentencing, the offender was directed under the probation order to participate in an inpatient rehabilitation program and psychological intervention from which a favourable report was available for his sentencing. There was no consideration of the length of the head sentence or the custodial component on the sentence leave application other than in the context of whether an error was made in the finding that exceptional circumstances did not exist. It is also relevant that the total period particularised for the offending was no more than two months.

- [20] No criticism can be made of the prominence given by the sentencing judge in the applicant's matter to the need to protect children from the type of conduct engaged in by the applicant using social media platforms and particularly when the applicant directed the complainant to use Snapchat where the feature of the automatic deletion of messages makes detection of the offending more difficult. The sentencing judge appropriately emphasised the importance of both personal and general deterrence and denunciation. As the above analysis shows, both *Squires* and *Mellor* are of limited assistance as comparable authorities for the applicant's offending. The increase in the maximum penalty from that which applied in *Burdon* and *Goodall* means those authorities do not support a conclusion that the sentence imposed on the applicant was "unreasonable or plainly unjust" or the result of any misapplication of principle.

Order

- [21] The order which should be made is: Application for leave to appeal against sentence refused.
- [22] **DOYLE JA:** I agree.
- [23] **SMITH J:** I agree.
- [24] **MULLINS P:** So the order of the Court is: Application for leave to appeal against sentence refused.