

## New offence comes to light for convicted sex offender

**“My mind would not allow me to forget that day,” says victim**

A convicted sex offender who has twice served sentences for sexual assault is set to receive a suspended sentence for a new offence. The Circuit Criminal Court heard last week that in a County Waterford leisure centre on a date between July 1993 and December 1994 the man, an employee of the centre, assaulted a 12-year-old boy in a changing room. The victim met with Gardaí on January 4th 2017 to report the incident and he made a formal statement five days later. The accused was arrested and detained on January 19th 2017.

The court heard that he has previously received two custodial sentences in respect of 18 other offences. He was released from prison in 2016. Detective Garda Paul O’Flynn told the court last Tuesday, March 26th, who outlined that the accused, now in his 50s, had approached the boy for a dare offering a fiver if he would try on a girl’s swimsuit. They went into a changing room at the leisure centre, where the accused removed the boy’s towel and commented on his penis. He began masturbating the boy and attempted to perform oral sex on him. The boy put a stop to it and left, while the accused told him: “At least you had the nerve to do the dare.”



### Victim impact

In his victim impact statement the man said he still carries emotional wounds as a result of the assault which had impacted on him because of the “predatory and manipulative manner” employed by the accused. The defendant’s actions had taken “everything I believed in, or that came instinctive to me regarding trust, affection, support and protection and destroyed their very existence”. “As a young boy my mind often would not allow me to forget that day. I would feel sick and alone many times when I should have been enjoying school or a sporting event. I would fear participation in events, sporting or otherwise which involved changing clothes or challenging myself,” the statement read.

The victim said it has taken over twenty years, thousands of euro worth of counselling sessions as well as overcoming addiction issues, to change the habits borne out by the perpetrator’s actions. “At such a young age, I appreciate that I may have been a sensitive soul, but I was allowed to be. I was only a boy.” He thanked Detective Garda Paul O’Flynn for treating his claim with dignity and respect, saying that the resulting case was impacting positively on his mental health. Judge O’Kelly put forward the option of 240 hours of community service in lieu of a prison sentence. Explaining his reasoning he said that, even with the passing of over two decades, it was clear the victim had been seriously affected by the assault.

Judge O’Kelly said there were several aggravating factors in the case involving the accused, who was aged 29 or 30 at the time of the incident.

## Breach of trust

"He exploited the opportunity his position as a lifeguard gave him," the Judge said.

"Besides the breach of trust, the significant age difference was an aggravating factor," he said, adding that the use of money to induce the victim also had to be taken into account.

He said a two-and-a-half-year sentence would be appropriate but reduced this by a year on account of the accused's remorse and his apology to the victim, which was accepted to a certain degree. Judge O'Kelly added that the man's isolated childhood, combined with his repressed sexuality, were also factors in reducing the sentence. However, imprisonment became further complicated by a number of issues according to the Judge.

He told the court that if the victim had made his complaint earlier, where it could have been included along with the previous 18 offences, it would not have necessarily meant a longer prison sentence. The Judge took into account the situation faced by the family members of the accused. It had been argued by Colman Cody SC that he was needed at home to help with the running of the family farm and also because he was the sole carer of his parent. Another family member had also fallen ill recently the court heard.

Judge O'Kelly said these family members deserved great sympathy, since they were also victims of the accused's offences and were themselves innocent. The court also heard that since his release in 2016 following his second period in prison the defendant has acquired a much more appropriate view of relationships. Due to these factors the Judge said a one-and-a-half-year sentence would not be justified. "And yet he does owe a debt," Judge O'Kelly noted. He put forward the option of 240 hours community service which was accepted by the defence.

The accused was told he would need to disclose any further sexual offences that have yet to come to light. If not, the Judge said, he could expect any possible future cases to be dealt with in a different manner. Judge O'Kelly adjourned the case to April 30th to allow for a report from the Probation and Welfare Service be carried out on the accused.