

# Six years for sexual assaults on wife

By GILLIAN FIELD

A man who pleaded guilty to handcuffing, abducting and sexually assaulting his estranged wife was sentenced in the ACT Supreme Court yesterday to six years' jail, with a non-parole period of three years.

Chief Justice Jeffrey Miles said it was rare for a man to be charged with sexual offences against his wife, and there was little by way of sentencing precedent.

"The courts should protect the right of a woman to terminate a failed relationship with a man," he said.

Justice Miles said he would take into account the prisoner's youth and plea of guilty.

The 21-year-old man had been charged with seven counts including arson, abduction, sexual intercourse without consent, third-degree sexual assault and theft.

Between December 1 and December 31, the man had argued with his wife. He had forced her into a car, driven her to some flats nearby, where he had handcuffed her. He had then taken her

to an area near Majura Lane and forced her to have sexual intercourse with him on the ground next to the car, still handcuffed, with their one-year-old baby girl in the car.

In March this year the man had gone to see his estranged wife and interrupted her in the shower. He had threatened her with a steak knife, and tried unsuccessfully to have sex with her.

A few days later, he had gone to the flat again, forced her into his car, and driven her to a motel in Queanbeyan. He had forced her to have sex while she was tied up with rope.

Later that week, he went back to the flat and set fire to a bed-sheet and clothes.

During sentencing proceedings last week, he said that he still loved his wife, and was upset about not being able to see his daughter.

"I'm sorry for my wife, what she's gone through," he said. "I'm sorry for what I've done."

He said he had found the separation in February hard to take, and said that he had been under the influence of drugs when the offences took place and could not remember them very clearly.

During his four months in the Belconnen Remand Centre he had stopped using heroin, but told Justice Miles that if he went to jail he would start again. "No-one wants to sit there straight," he said.

"It's silly to expect me to stop drugs and violence in a place where you have to live on drugs and violence."

Defence counsel Ray Mildren said that a long jail sentence would just make his client's anti-social tendencies worse, and a short sentence should be considered.

"The charges relate to his wife, not to strangers," he said. "If he had abducted different women the penalty would be higher."

Mr Mildren said the prisoner was not a serial rapist. He had also shown that he could work and have responsibilities, such as looking after his daughter.

Justice Miles said that society did not offer an alternative to jail for such crimes, and it was no use saying that the prisoner would not be a better person because of it.

Kim Sattler, the coordinator of the Woden Youth Centre, ten-

dered a Victim Impact Statement and said that the victim had been badly affected. In February, she had been full of confidence, but by March she had become "emotionally overwrought".

The victim had no wish for reconciliation.

When passing sentence yesterday, Justice Miles said that the sexual assault was made worse by the "deprivation of freedom and the degree of violence" and the fact that they had been repeated. The arson, he said, showed a disregard for the well-being of the victim.

He said that the prisoner seemed to blame others for his predicament.

There was evidence that the prisoner had had a troubled childhood, started drinking alcohol at 12 and using heroin at 13. His life had consisted of bouts of hard work interspersed with crime, and there were warrants interstate for his arrest.

Justice Miles said that the Queanbeyan offence was not in the jurisdiction of the court, but made it clear that if it had been taken into account the jail term would not have been longer.

# Longer sentence for 'revenge' rapist

MELBOURNE: Victoria's Director of Public Prosecutions was on appeal yesterday to increase the jail sentence of a man who attacked a woman in revenge for reporting an earlier rape.

Upholding the DPP's appeal against the perceived leniency of Robert Tabche's 14-year maximum prison term, the Full Supreme Court ordered Tabche should serve 16 years' jail.

His 11-year minimum prison sentence was increased to 13 years.

Chief Justice John Phillips and Jus-

tices Robert Brooking and Kenneth Marks said the circumstances of the case justified a harsher penalty.

"The idea of rape as an act of revenge is a repellent one and the idea of a second rape to punish the victim for reporting the first is singularly repellent," their statement said.

In April, Tabche, 23, formerly of Nicholson Street, Brunswick, was found guilty by a county court jury of two rape charges.

He was sentenced by Judge Bruce

McNab to 14 years' jail with a minimum of 11 years.

In August last year, Tabche had raped an 18-year-old woman once and had allowed her to get dressed, but then raped her again, using a sharp metal object which caused serious internal injuries.

He told the woman, who he had been sexually assaulting since she was 13, that it was a "payback for lagging on him" about other rapes for which he had served several months in jail.

# Three 'had lied' to hide business relationship

SYDNEY: A federal public servant, a shire councillor and a property consultant had an illicit business arrangement over land development on the NSW North Coast, the Downing Centre Local Court heard yesterday.

Prosecutor Mervyn Grogan, for the Commonwealth Director of Public Prosecutions, said the men had lied to the Independent Commission Against Corruption in 1989 to cover up that relationship.

Former deputy president of the Tweed Shire Council, Thomas Edward Paul Hogan, and former property consultant, Barry John Cassell, pleaded not guilty to conspiring to give false evidence to ICAC.

Cassell, also a former federal director of the National Park and national director of the Cattlemen's Union, pleaded not guilty also to four counts of making false statements to the ICAC.

Earlier yesterday, former federal public servant Michael John Ross pleaded guilty to giving false evidence before Assistant Commissioner Adrian Roden, QC, at the ICAC inquiry.

He pleaded guilty also to giving false evidence by saying that at a July, 1989, meeting he had had no discussion with Hogan about a \$5000 payment to him by Hogan.

A charge of conspiring to give false evidence was withdrawn and magistrate Jan Stevenson adjourned the case for sentence on September 4.

Ross, a former executive officer for various NSW government ministers, was a federal public servant working with an administrative service officer with the Australian Property Group within the Department of Administrative Services.

Mr Grogan said the prosecution alleged the men were involved in an illicit business arrangement.

Ross, a public official, and Hogan, a Tweed Shire councillor, allegedly were engaged in conduct with Cassell's company, Consultants Holdings (Aust) Pty Ltd.

He said they told a series of lies to the ICAC about the relationship.

The cover-up involved Ross having the pseudonym Michael Prince, and the use of Hogan's brother, Vince.

Mr Grogan said Hogan had almost a "total inability to remember anything of consequence, even to identify his signature on cheques".

The prosecution concluded that "his poor memory is not some genetic problem, but something to do with the fact he has got a guilty mind".

# ICAC report on big trade in govt files

SYDNEY: The NSW Independent Commission Against Corruption will hand down a three-volume, 1300-page report today on the release of unauthorised government information.

"In the past two years, the inquiry has uncovered a widespread corrupt trade in information from state and Commonwealth government agencies and the private sector," a spokeswoman for the ICAC said.

"Public officials have been extensively involved, including police officers, Roads and Traffic Authority staff and others.

"Insurance companies, banks, other financial institutions, private inquiry and commercial agents and some lawyers have provided a ready market for confidential information."

The report, by Assistant Commissioner Adrian Roden, QC, will be made public at 9am today.

# Tumut man to face robbery charges

A man was committed to the Supreme Court yesterday charged with the armed robbery of the ANZ Bank in Dickson on June 1.

Magistrate Michael Somes found a prima facie case on three charges arising from the robbery against Michael Reginald Baker, 25, of Tumut.

Baker will face one charge of armed robbery, one of driving a car knowing it to be stolen, and one of using a dangerous and illegally modified weapon.

# Court hears evidence of 'touching' by parent

SYDNEY: The main witness against the families of 65 NSW children alleged to have been sexually and emotionally abused by their parents broke down in the stand yesterday, eventually leaving the court after more than two hours of cross-examination.

Pauline Rockley, in charge of the Department of Community Services investigating team, left the witness box at lunchtime after testifying that a four-year-old child told police during a record of interview her mother had kissed and touched her on her vaginal area.

The court is hearing a care application for the children belonging to a sect known as The Family, following allegations that all the children had been or were in danger of being sexually and emotionally abused by their parents.

Ms Rockley told Cobham Children's Court she did not want to "keep coming back here day after day" and broke down in tears.

Ms Rockley, who did not appear in court one day last week after a dizzy spell, was suffering from high blood pressure and palpitations, department counsel Robyn Tupman said.

During intense questioning, the children's counsel, Mark Trench, asked Ms Rockley whether she interpreted the child's remarks about her mother touching her vagina as mean-

ing the child was touched inappropriately.

"I'd say there was a possibility it was inappropriate," she said. "... It can be interpreted in different ways."

Ms Rockley earlier told the court welfare officers were trained to avoid asking direct or suggestive questions during interviews with children relating to sexual abuse.

"You may get a response that the child believes you want," she said. However, Mr Trench said a question asked of the four-year-old — "Who taught you to touch?" — was the kind of question the department said was wrong because it implied someone taught her to touch herself.

He said the child simply could have referred to her mother bathing her or helping her go to the toilet, "a pretty normal sort of thing".

Ms Rockley told the court on Monday the department believed all the children were abused on the basis of interviews with former members, literature seized from the sect's houses and police records.

Yesterday she said the department had evidence from only two of the 65 interviewed children which directly related to the allegations of sexual abuse.

"So, would you agree with me a lot of the interviews are completely unhelpful?" Mr Trench asked.

"Yes," Ms Rockley replied.

# Wagner denies involvement

ADELAIDE: The third Australian charged with war crimes has denied he was a member of the predominantly German gendarmie in Ukraine during World War II, an Adelaide court heard yesterday.

A committal hearing into war-crimes charges against Heinrich Wagner, 68, of South Australia, was shown a videotaped interview with Wagner by federal special investigations officers in July last year.

During the interview, Wagner said he was never a member of the gendarmie in the Ukrainian village of Ustinovka, and that he was not in the village when the offences with which he is charged allegedly occurred.

Wagner is charged with having murdered 19 children and a railway construction worker and with being involved in the murder of 104 people in Nazi-occupied Ukraine from 1942 to 1943.

At Monday's opening address, special prosecutor John Nader, QC, alleged that Wagner had been either a member of the German gendarmie or was closely associated with it, probably as an interpreter.

In the interview shown yesterday, Wagner said he em-

ployed at a radio station in Ustinovka during the German occupation of Ukraine and occasionally worked as an interpreter.

"I was not in the gendarmie, I was in the radio station," he said during the interview.

"On occasions when they wanted someone to translate I was called on — that was in 1941."

Wagner told investigators during the interview that a fear of compulsory repatriation while he was in a German displaced-persons camp after the war was not the reason he had changed his name from Heinrich Wagner to Andrej Wojtjenko.

"I never was afraid to tell anybody that I was a Volkdeutsche [of German descent] and I never will be, because I am," he said.

He also said he did not know why he had signed documents after arriving in Australia in 1950 which contained incorrect details relating to his date and place of birth, and date and place of marriage.

The hearing in the Adelaide Magistrates Court before magistrate Kym Boxall continues today.

# DRINK-DRIVING

Ten people were dealt with in the ACT Magistrates Court yesterday for drink-driving offences.

Before Magistrate Warren Nicholl Trevor Anthony Lynch, 40, of Maxworthy Street, Kambah, pleaded guilty to an offence on May 31, 1992, in Parkes Way; Breathalyzer 0.110, fined \$600, licence suspended for six months.

Julie Lynne Inder, 35, of Worondora Street, Katoomba, pleaded guilty to an offence on June 9, 1992, in Baldwin Drive; Breathalyzer 0.180 to 0.190, fined \$100, licence suspended for three months.

Russell Pearce, 35, of Florentine Circuit, Katoomba, pleaded guilty to an offence on May 28, 1992, in Maribyrnong Avenue; Breathalyzer 0.100, fined \$400, licence suspended for nine months.

Travis Ecclestone, 19, of Florentine Court, Katoomba, pleaded guilty to an offence on April 17, 1992, in an unnamed road; Breathalyzer 0.160, fined \$350, licence suspended for six months.

Benjamin James Barrow, 21, of Monaro Hill, Williamsdale, pleaded guilty to an offence on May 1, 1992, in Anzil Street; Breathalyzer 0.173, fined \$500, licence suspended for six months.

Ivan Stephens Barac, 23, of Newman Morris Circuit, Oxley, pleaded guilty to an offence on May 3, 1992, in Aitilton Drive; Breathalyzer 0.140, fined \$300, licence suspended for three months.

Michael Craig Dolan, 19, of Cusack Place, Fraser, pleaded guilty to an offence on May 24, 1992, in Haydon Drive; Breathalyzer 0.120, fined \$250, licence suspended for three months.

Jason Matthew Wood, 20, of Jinka Street, Hawker, pleaded guilty to an offence on June 5, 1992, in Coulter Drive; Breathalyzer 0.170, fined \$500, licence suspended for six months.

Michael Robert Kay, 27, of Empire Circuit, Forrest, pleaded guilty to an offence on August 1, 1992, in Swanson Court; Breathalyzer 0.260, fined \$500, licence suspended for six months.

Before Magistrate Michael Somes Jurk Atanasow, 37, of Lockwood Place, McKellar, pleaded guilty to an offence on May 16, 1992, in Belconnen Way; Breathalyzer 0.160 to 0.170, fined \$900, licence cancelled, disqualified from holding a licence.

# LAW LIST

**FAMILY COURT**  
Before Justice Finn, in Court 1, at 10am: *Brumfield*.

**ACT SUPREME COURT**  
Before Chief Justice Miles, in Court 1, ACT Law Courts, 10am: *Plea/Sentence — R v Fox*.

Before Justice Higgins, in Court 2, at 10am: *Hearing — Slagg v Commonwealth of Australia*.

Before Justice Morling, in Court 6, at 9.30am: *Appeal — Eastman v Magistrate W. K. Nicoll and another (part-heard)*.

Before the Master, in Hearing Room 3, 3rd Floor, AMP Building, Hobart Place, at 10am: *Hearing — Siderovic v SFF Forework Pty Ltd and another*.

**NOTICE TO JURORS**  
Persons who were summoned to attend the Supreme Court on August 3, 1992 are no longer required and are discharged from further service under that summons.

**ACT ADMINISTRATIVE APPEALS TRIBUNAL**  
Before Mr P. Corby, Member, Conference Room 1, 3rd Floor, AMP

Building, Hobart Place: *Conference: 10am Curley and Minister for the Environment, Land and Planning, 10.45am Urban Constructors Pty Ltd and Commissioner for ACT Revenue; 11.30am Quirk and Commissioner for Housing; 12.15pm Kirup Pty Ltd and Commissioner for ACT Revenue; 2pm Hoang and Commissioner for Housing; 2.45pm Savage and Commissioner for ACT Revenue; 3.30pm Tortelli and Commissioner for Housing; 4.15pm Cyclists Rights Action Group and Department of Urban Services.*

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