

ENGLAND AND WALES / JUDGMENT

R v Kishor Patel

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R -v- Patel Neutral Citation Number: [2026] EWCA Crim 246 Case No: 202503984 A5 IN THE COURT OF APPEAL (CRIMINAL DIVISION) ON APPEAL FROM THE CROWN COURT AT LEICESTER His Honour Judge Spencer KC 33JJ2469823 Royal Courts of Justice Strand, London, WC2A 2LL Date: 12 February 2026 Before: LORD JUSTICE STUART-SMITH MRS JUSTICE CUTTS and HIS HONOUR JUDGE MANSELL KC (Sitting as a Judge of the CACD)

- ----- REFERENCE BY THE ATTORNEY GENERAL UNDER s.36 CRIMINAL JUSTICE ACT 1988
- ----- REX -and- KISHOR PATEL Appellant Respondent
- ----- Ms A Husbands appeared on behalf of the Attorney General Ms S Murray appeared on behalf of the Offender
- ----- The provisions of the Sexual Offences (Amendment) Act 1992 apply to these offences. Under those provisions, where a sexual offence has been committed against a person, no matter relating to that person shall during that person's lifetime be included in any publication if it is likely to lead members of the public to identify that person as the victim of that offence. Approved Judgment R -v- Patel Lord Justice Stuart-Smith: 1. 2. The provisions of the Sexual Offences (Amendment) Act 1992 apply to these offences. Under those provisions, where a sexual offence has been committed against a person, no matter relating to that person shall during that person's lifetime be included in any publication if it is likely to lead members of the public to identify that person as the victim of that offence. This prohibition applies unless waived or lifted in accordance with section 3 of the Act. For the avoidance of any doubt, we do not waive or lift the prohibition. His Majesty's Solicitor General applies for leave to refer a sentence which he regards as unduly lenient. The sentence was passed by HHJ Spencer KC in the Crown Court at Leicester on 13 October 2025. The offender had pleaded guilty to two counts of indecent assault and then been convicted by the jury of two counts of rape and a further count of indecent assault. The aggregate sentence was one of 9 years' imprisonment made up as follows: i) ii) On count 1, an offence of indecent assault, on his plea of guilty the sentence was 12 months. On count 4, which was a multiple incident count of rape, upon conviction he was sentenced to 9 years concurrent. iii) On count 5, which was a further count of indecent assault, on his plea of guilty he was sentenced to 15 months concurrent. iv) On count 6, which was another offence of indecent assault (being a multiple incident count), upon conviction he was sentenced to 3 years concurrent. v) On count 7, which was a count of rape,

a single incident, upon his conviction he was sentenced to 9 years concurrent. Various other orders were made which we do not need to deal with in any detail. 3. As we have said, counts 4 and 6 were multiple incident counts. Count 4 on the indictment stated that it reflected the course of the offender's conduct and involved three or more rapes. The case was opened and conducted on the basis that the course of conduct is that the offender had sexual intercourse with his victim "almost daily" and that she said it happened "on many, many occasions". When the offender came to be sentenced it was accepted on his behalf that even on his own account, the incidents happened once or twice a week throughout the period of about 6 months.

4. We give leave. The factual background 5. The offender's victim (who we shall call "V") was related to the offender. The offending happened during 1995 and 1997. For the most part it happened while V was 13 or 14 and the offender was about 10 years older than her. Count 7 was different and occurred when R -v- Patel V was just short of 15. 6. 7. 8. 9. V lived with her parents and siblings. During 1995 the offender moved to the UK from abroad. He moved in and lived with V's family for about 6 months until he moved to another city with his wife, after which time he would continue to visit V's family. The offender started to abuse V shortly after moving into her family home. Count 1 related to the first incident of indecent assault. V was in the back of the car with her parents, the offender and one or two of her siblings also in the car. While sitting in the back of the car, V felt the offender's hand slip into her top. He touched her breasts; she was taken aback. She was only around 13 or 14 and had no prior sexual experience. She moved away from him. She settled on the thought that it must have been an accident. As time went on the offender continued to touch V's breasts. On other occasions he also kissed her. This course of conduct continued while he was living at her home. The touching of her breasts and kissing was reflected in the multiple incident count of indecent assault (count 5). As we have said, the offender pleaded guilty to counts 1 and 5, pleading on the first day of his trial. As time went on V was subjected to an escalation in the nature of the sexual conduct from the offender. At night, when she was asleep, the offender entered her bedroom. She shared her bedroom with her younger sisters and shared a bed with one of them. Having gone into the bedroom the offender would climb into V's bed. He placed his fingers inside her vagina. V woke. She left the bedroom and then slapped the offender. He did not react. He then said: "There's nothing about you" - meaning that there was nothing to like about her. V described feeling scared. She could not tell anyone. This continued. The offender digitally penetrated V's vagina on at least three further occasions (count 6 indicted a multiple incident count of indecent assault by digital penetration). Again, the offender was not deterred from going further. He continued to enter V's bedroom at night. He then began to rape her. As she lay in bed next to her younger sister the offender would climb on top of her and have vaginal sexual intercourse with her. The offender would then tell her not to disclose it to anyone as he would get into trouble. Over time, V described the rapes becoming an almost daily occurrence. They would always happen at night. When it was cold (because there was no radiator in the other bedroom) V and her sister would share a bed in the same bedroom as her brother and her other siblings.

Again, the offender would get into her bed, climb on top of her and rape her in the bed. He would ejaculate on a towel that he kept nearby.

10. The rapes had occurred while the offender was living with V's family were reflected in count 4, a multiple incident count of rape on at least three occasions. The evidence was that this was a regular occurrence, as we have already indicated. The offender lived at V's family home from when she was about 13 and until she had just turned 14. In May 1996, the offender moved out of V's family home and moved in with his wife's family in another city. However the abuse continued. When the offender visited the family at Leicester, he continued to rape V. The last rape was around her 15th birthday in February 1997 and made V pregnant. This final rape was count 7. As we shall indicate in greater detail, these multiple rapes and other sexual assaults had a profound effect on V. However, the fact of R -v- Patel falling pregnant after the final rape added a new and catastrophic level of damage. Part of the damage was because in V's culture sexual abuse was literally unspeakable. What followed was therefore predictable and terrifying.
11. When V missed her period, she soon realised that she was pregnant. She carried on going to school and managed to keep it a secret from everyone. In November 1997 she gave birth in the bedroom of her family home. She managed to give birth without waking her parents. Her family were unaware of what was happening until she had to be taken to hospital. Her sister saw the baby and asked if it was the offender's. V nodded. But her sister never told their parents.
12. V was taken to the local hospital. She required a blood transfusion. She needed a number of stitches. She stayed in hospital for a few days after the birth. She was 15. She agreed to give her baby up for adoption. As part of the investigation leading to these proceedings, her son was traced by the police. He agreed to a DNA test but did not wish to know any of the circumstances of the case and that wish was respected. The DNA test did however confirm that his mother was V and that his father was the offender.
13. V navigated life with this burden for years. Her siblings had some degree of awareness, particularly her sister who had seen the baby. Her sister also remembered the offender being in the bed that they shared. She recalled him lying facing her sister and the bed moving at night.
14. V's brother had read her diary in about 1995. He had seen V and the offender walk down the street holding hands and was aware that they would disappear for a couple of hours at a time. He tried to tell their parents but had been chastised. V, however, told no-one. In 2006 she told her husband that she had had a baby when she was 15 as she had been abused as a child. She said it was someone who had lived with them for a while. She had never told her husband any detail about what had happened or disclosed who it was who had abused her. In November 2013, V told a friend that she had been accessing counselling to cope with the trauma of sexual abuse, pregnancy, birth and having to give up a baby as a child. In the summer of 2023, V reported these matters to the police. She was interviewed on 7 July 2023.

On 27 November 2023, the offender was arrested and interviewed under caution. He denied ever having had any sexual contact with V. He said that he could not have committed the offences as other people were always present. He also denied ever sharing a room with V. It was suggested to him V's son was his but he said that this was "impossible".

15. On 21 April 2024 the offender was interviewed for a second time. He confirmed the account he had given in his first interview. He continued to deny that he could be the father of the child, maintaining that he had never had a sexual relationship with V. He also said that at the time the child was conceived he had already moved out of V's family home and was living in another city with his wife. When he was informed that DNA testing showed that V's son was his, he continued to deny a sexual relationship. Challenged further, he went on to say that at the time he was drinking alcohol regularly and could only have had sex with her when he was drunk and that he had no memory of doing so. R -v- Patel 16. In due course, as we have said, the offender contested the most serious allegations to trial and was duly convicted.
17. V made a victim impact statement when the offender came to be sentenced. It provides a detailed insight into the effect of the offender's behaviour on her. It is important that V should know that her voice and her cry of pain have been heard. We shall therefore take this slightly unusual course of reading her statement in full: "As I sit and attempt to put into words the impact this monster has had on my life, I mull over where to begin, the process in itself is re-traumatising as is me giving him (a paedophile) any headspace/thought. Avoiding anything triggering is something I have learnt to do to protect myself but it is not a foolproof strategy. It's hard for words to convey the extent of the damage that you have caused and the lifelong trauma for so many lives. A child was conceived as a result of your horrendous behaviours and now he also knows he is a result of rape. What must go through his mind is something I can only imagine. I feel a sense of responsibility for him as he is a part of me but also a harsh reminder of the trail of destruction you have left behind, and for what? A few minutes of sexual gratification from a child. You make me sick. After your months of abuse, you still continued with this like it was an excursion when you had a weekend away [in the city in which I lived]. I was left to deal with a pregnancy, alone, isolated and no one to turn to. It's strange how you didn't notice this change in my body. The physical toll this took on my body meant I had to have an epidural, stitches due to the tear from giving birth without any medical care, iron tablets and creams to stop breast milk from leaking out on my school uniform. The physical impact of childbirth alone could have ended very differently if there were any complications. Giving birth is hard enough but to do it alone at 15 was tough and the word tough is an understatement. I recall the paramedics having to bring me down the stairs in a wheelchair after I gave birth. Whilst in hospital, I attempted to go to the bathroom and the whole room began to spin and I was locked in a bathroom having pressed the emergency cord for help. I was so weak I needed a blood transfusion; 2 pints of blood were put into my body that day. The morning sickness, the months I lay awake not knowing what to do and the days and nights I still am lost in thoughts of the trauma you have caused, it feels never ending. How I get up some days is a miracle. Emotional-I often

feel like I operate without the ability to feel but then tears roll down my face like they are now as I write and I can feel R -v- Patel emotion. Dissociation is one of the many defence mechanisms the brain can use to cope with trauma. There's so many emotions I go through: guilt, shame, anger, hatred, feeling 'dirty', humiliated and scared. At times I feel I am to blame, I struggle with trusting others, feelings of numbness, worthlessness and sheer exhaustion at times with this constant battle with my thoughts and emotions. I remember feeling suicidal as a teenager and hoping my life would end as that was easier than dealing with what you did to me. Psychological-where do I even begin to encapsulate this. The flashbacks, the nightmares, the suicidal ideation and thoughts over the years. Not being able to switch off or control these at times has been terrifying. The trauma of having to re-live the whole thing again and again is just a constant rollercoaster. Impact on family-my mum is no longer alive to see if justice will prevail, but I know she died with a heavy heart of knowing she allowed you to stay under her roof and treated you like a son only for you to misuse and abuse this trust. My dad-he cannot bear to think about what you have done as I imagine it is just too difficult for him to comprehend. He supported you to have the life and family you have and you betrayed him. The guilt he must carry as a father in feeling responsible in allowing you into his home is only something he will know. My son, the child you conceived, he must struggle with his identity no doubt but also now knows he was an unwanted pregnancy, the lifelong significance of this is something I can only begin to understand. Perhaps you may want to think about this life you have ruined also. My daughter-I have not yet told her about all of this as I want to protect her, this is something most parents will resonate with. How I raise her is hugely impacted by my own unfortunate lived experiences and letting her do things like sleepovers for example fills me with dread. My husband-He has had to carry me emotionally in the best way that he can. The impact abuse has on relationships is massive from emotional connections to sexual intimacy and being uninterested in sex which should be a normal and healthy part of life when not done to you or forced upon you. My siblings-there is this worry from my younger sister in wanting to do more to help me but feeling helpless as no one can make it go away. They have had to go through the trauma of re-living the nightmare again for the purpose of evidence. It's still something that no one talks about because of the discomfort it brings. My siblings R -v- Patel had to witness what you did to me and I am sure these memories will haunt them also. Impact on friends-my friends have given up their time and energy to pick up the pieces you have left. The lengthy phone calls, the check ins, attending hearings, looking after my daughter when they know I need some time and generally being there for me when it has mattered. The disgust and empathy of knowing someone they love is suffering is hard for someone like you to comprehend but I can be sure they hate you. My employer-my manager has supported me and continues to support me through this difficult time whilst trying to balance my health and wellbeing and allowing me to continue to work. The extra meetings for personal supervision to ensure I am okay has impacted upon my work and the quality of work I am able to produce. Quality of life changed-from the moment you took it upon yourself to touch me inappropriately to the extent of making me some sort of object that served a sheer purpose for you changed my life. What should have been 'firsts' that are

memorable and celebrated have become sordid nightmares I want to erase from my memory. You deprived me of my first kiss, losing my virginity and made me feel like a I was merely there to serve a purpose-your needs. This has massively impacted my self-esteem and I struggle with imposter syndrome. I'll never know what life would be like without your treacherous interference and I lost a big part of my own childhood when you came into my home. You scarred me for life, I am always doubting myself, holding myself back as I don't feel I am good enough, the connotations of being a victim of childhood sexual abuse as far reaching. My view of what a healthy relationship is became skewered as such a young age. I experienced trauma and loss before I was even an adult. I gave up a child and this loss is something that will stay with me. When I had another child, the trauma affected my bond. I had to access months of counselling from a specialist service for victims of childhood sexual abuse. It is not until this point did I start to look at things a little differently and started to hold the adults accountable including you for what happened to me. The shame and guilt of living in a community where sexual abuse is not spoken about meant your crimes went undetected until now. Ongoing impact-Everyday there is a reminder of what I have suffered, this might be an article in the newspaper, a piece of work I am doing, R -v- Patel something I am watching on TV. At times, I just want to curl up and stay in bed. Financial- I have spent money on therapy lasting months. The time I invest in trying to stop myself from experiencing a mental breakdown is difficult to put a value on. I can't afford to take time off work as this whole process is lifelong and will never end. The thought of a trial fills me with dread in having to re-live every moment again. The anger and hate I feel towards you will never go away and ordinarily; I am not an angry person but you bring out the worst in me."

The offender

18. The offender is now aged 53. He had no previous convictions and until his arrest lived with his wife and two children. The sentencing hearing
19. The prosecution opened the case on the basis that an individual incident of the rapes would fall within category 2B, with a starting point of 8 years and a range of 7 to 9 years. Both in writing and orally the prosecution pointed out that count 4 was a multiple incident count and a count 6 was a multiple incident count of indecent assault, with the rapes involving "multiple offences over a long and substantial period of time". The judge noted that although the prosecution were not contending that his conduct amounted to a campaign of rape, the rape offences occurred even on the offender's evidence once or twice a week (minimum). Prosecution counsel replied that it was "pretty close to a campaign", that being a clear reference to the provision in the guideline which states: "Offences may be of such severity, for example involving a campaign of rape, that sentences of 20 years and above may be appropriate."
20. The offender had conceded that V was only 13 when he first had sexual activity with her. In the light of her victim impact statement the prosecution suggested, with what we take to be considerable understatement, that the judge "might feel that there is also the potential for severe psychological harm in relation to what's happened".

21. The prosecution identified as aggravating features (a) the location of the offending (V's own home) (b) the presence of others because there were very small children in the same bed when the rapes were happening and (c) a relatively limited attempt to stop V reporting. 22. 23. In relation to the final count of rape (count 7), the prosecution referred to the added feature of pregnancy which, as the prosecution put it "has had an enormous impact in this in particular case on not only [V] but also of course, ... upon the child that was born". In mitigating for the offender, Ms Murray, who represented the offender before the court below as she has done before us, realistically accepted that there was very little mitigation due to the fact that the offender had been convicted after a trial. She concentrated mainly on the long period (almost 30 years) since the end of the offending and the impact on both R -v- Patel the offender and his wife and children. 24. In sentencing the offender, the judge started by observing that his arrest must have come as a great shock and that the jury's verdict must have come hard for him after living a more than respectable life for quarter of a century, the case must have come as a bombshell to the offender and his family. That said the judge observed, undoubtedly correctly, that the impact on the offender and his family "is nothing compared with what you did to [V] and the impact it has had on her family for particularly on her for all those years."
25. After briefly summarising the facts the judge came back to the impact on V, saying that every word of her victim impact statement hit home and that the impact on her had been "absolutely devastating". He then outlined his approach to sentencing as follows: "I shall regard those offences that are not rape as aggravating features of your conduct and load the sentence on to both count 4 and count 7. Mr Gowel [prosecution counsel] is fair in his assessment; he categorises these offences of rape as what are known as 2B offences which gives a starting point for sentence of eight years in prison with a range of seven to nine years. There are considerable aggravating features: these rapes took place in [V's] home, in the main in her bedroom where she should have been safe; most of these rapes were in the presence of children who were sharing that bedroom. The further aggravating feature is that you, effectively, manipulated her into a position of not telling. All of that informs sentence and where in the range I should pitch it. Ultimately I have come to the view that I need not aggravate sentence beyond the range available to me. That is because this will be a significant sentence, the impact on you will be devastating. That sends as much of a message as justice needs." He then passed the sentences to which we have just referred. 26. It will be immediately noted that the overall effect of the judge's approach to sentencing was that he imposed an aggregate sentence for all the offences that was only 1 year longer than the starting point for a single rape falling within category 2B. Solicitor General's submissions
27. The Solicitor General submits in outline that: i) ii) There is no recognition that the acts of rape charged by count 4 took place once or twice a week for some 6 months. The judge mischaracterised the rape offences as category 2B. Whether the offending in count 4 was viewed on its own, or in conjunction with the final rape (count 7), this offending should have been moved up to category 1 because of (a) the R -v- Patel persistence of the offending (which was close to being a campaign even if not actually treated as a campaign) and (b) the

impact on V, a person who was particularly vulnerable because of her age and the cultural wall of silence that meant she had to suffer alone. iii) Because of the impact upon her count 7 should have been treated as a category 1 case. It resulted in extreme psychological harm associated with her pregnancy and giving birth at a time when V was particularly vulnerable due to her personal and cultural circumstances. iv) The sentence failed to reflect the aggravating features that the prosecution had identified during the opening to which we have referred above.

- (v) There was very limited mitigation, namely lack of previous convictions and passage of time, neither of which should be afforded great weight in the face of offending of this severity. The offender's submissions 28. For the offender, Ms Murray has said everything that could possibly be said on behalf of the offender. She repeats the points that she made to the judge, concentrating on the offender's otherwise good character and the period since the offending finished. Wisely, she does not emphasise the shock sustained by the offender when he was eventually arrested. She accepts that pregnancy arising as a result of a rape offence is inherently gravely serious but submits that the fact and harm of the pregnancy is already taken account of by the sentencing category. Even if the combination of factors is regarded as extreme, it does not follow that this must elevate an offence to category one. The guideline emphasises only it may do so. She points out that the judge has gone to the top of the category range for a category 2B offence of rape and submits that it was justifiable to go no further in the light of the mitigation that was available to the offender. Once all factors are considered, she submits that an aggregate sentence of 9 years was just and proportionate. Discussion and resolution
29. We have no hesitation in concluding that the sentence passed by the judge was unduly lenient by a large margin. Count 4 involved one or two offences of rape committed on a 13 or 14 year old child per week for a period of roughly 6 months. Mathematical accuracy fades to insignificance in the face of such offending but, on any view, this count involved tens of incidents of rape each of which, if viewed in isolation, was a category 2B case with a starting point of 8 years and a category range of 7 to 9 years. The sheer weight of numbers of incidents makes an irresistible case for moving up from the starting point for a single incident of rape and well beyond the narrow upper band and limit of category 2B range. We agree that count 4 was "pretty close to a campaign". It should have been sentenced as such.
30. Turning to count 7. While we recognise that pregnancy as a consequence of an offence is R - v- Patel identified as a factor indicating category 2 harm, that is not the end of its relevance. In a case like the present, it would be quite wrong to ignore the actual impact that flowed and still flows from the fact of pregnancy both for V and for her son and for others. In our judgment, count 7 taken on its own required a significant upwards adjustment from the category 2B starting point and, if viewed in isolation, was on its own sufficient to require a sentence significantly longer than 9 years.

31. The judge was entitled to treat the rape offences as the lead offences and to direct that all sentences be concurrent. But in adopting that course, it was also necessary to bring into account the additional, if lesser criminality inherent in the offences of indecent assault represented by counts 1, 5 and 6. There is no indication that he did so.
32. We do not forget for a moment the principle of totality. However, in circumstances where
- (a) count 4 called for a sentence that was well into double figures and (b) count 7 viewed in isolation was exceptionally serious and (c) count 7 caused significant levels of harm over and above those suffered in consequence of the rapes the subject of count 4 and (d) the additional criminality involved in counts 1, 5 and 6 falls to be brought into account, we consider that the least aggregate sentence that could reasonably have been passed on this offender was one of 16 years. In our judgment, a sentence of 16 years is necessary to reflect the near campaign of rape and the additional trauma and suffering caused by the rape charged separately under count 7. This is a substantial step up from the way in which the case was opened to the judge at the sentencing hearing and the approach adopted by the judge. In our judgment, the judge was not assisted by that opening, which did not satisfactory reflect the gravity of the case despite the reference to count 4 being close to a campaign. Be that as it may, that failure by the prosecution cannot prevent us from intervening so that the least sentence that could properly have been passed is now put in place. 33. For these reasons we quash the sentences of 9 years imposed by the judge on counts 4 and 7 and substitute sentences of 16 years on each count. All sentences are concurrent as before. 11

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