



First person sentenced under Canberra's 'revenge porn' laws

By Alexandra Back

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A German foreign exchange student was on Monday the first to be sentenced under the ACT's "revenge porn" style laws after he sent a SnapChat video to a friend of a half-dressed woman after they had sex.

The 22-year-old avoided a conviction for his offending, which the ACT Magistrates Court heard did not easily fit into established categories of what constituted "revenge porn".

But while declining to convict the man, the magistrate pointed out that since being charged he had been barred from the university campus and unable to finish the semester, had to live in a hostel for months, incurred debt to his father while staying in Australia to face the charges and given "excruciating" evidence about his "stupid" conduct in court.

The exchange student at the University of Canberra, who has not been named to protect the identity of the victim, was out drinking with the woman at Mooseheads on February 8 this year.

They returned to her accommodation where they had consensual sex. After they had sex, the court heard, the exchange student took several videos of the woman with her underwear on.

One video was of the woman's back and buttocks as she lay in bed facing the wall. Another was of her on the bed facing towards him. The third was of the woman front on. It was clear to the court that she was aware of this video being taken.

But it was this last video that the man sent to a friend over SnapChat.

The distressed foreign student gave evidence on Monday, telling the court he sent the video to the friend to prove he was not gay, after earlier being teased about his sexuality.

The woman heard about the videos, and in a victim impact statement read to the court described feeling nauseous and sick to her stomach. She felt vulnerable and exposed and objectified. Even concentrating at university became difficult.

"What he did was not okay," she said.

The student pleaded guilty to two charges of capturing intimate visual data without consent and distributing intimate images without consent.

The man broke down when asked about the woman's feelings about his conduct. He said he was very sorry and did not mean to hurt her.

His barrister Theresa Warwick urged the court to distinguish between the student's conduct and the "revenge porn" behaviour the legislature had in mind when passing the law.

While prosecutor Jane Campbell said the court needed to play its role in educating people that images of their sexual partner "are not some trophy to store in your own SnapChat gallery".

In sentencing, Chief Magistrate Lorraine Walker said the man's conduct was stupid but she would use her discretion to not record a conviction on the two charges.

She accepted that the student's conduct was not revenge porn in the sense that it was neither a breach of privacy in an attempt to intimidate former partners, nor an attempt to win social notoriety.

She noted that the man had agreed he could not take the images back once sent, that they were outside his control and so outside the victim's control, "leading to a sense of powerlessness" for the victim.

The magistrate said his evidence was excruciating to watch, and that he was clearly acutely embarrassed by his behaviour and having to speak about it in a public court room.

But she suggested that was how the victims of these types of crimes might feel.

"Your behaviour was incredibly stupid and thoughtless."

She said the man was clearly well-regarded and intelligent. He had experienced extra-curial punishment after being kicked out of his student accommodation and banned from the university campus. He had been living in a hostel for months and incurring a debt to his father for staying in Canberra to face the charges.

"The ramifications to you of this single stupid act, have been great."