

**ROYAL COURT  
FULL COURT**

**18 December 2020**

**Before: John Russell Finch, Esq., O.B.E., Lieutenant Bailiff and:**

**Stephen Murray Jones OBE, Claire Helen Le Pelley, Terry John Ferbrache,  
Steven John Morris, Joanne Marie Wyatt, Alan Stevenson Boyle, Peter Francis Gill,  
Marilyn Jasmine King, Paul Martin Burnard, Jurats.**

**THE LAW OFFICERS OF THE CROWN**

**- v -**

**Paul FOX**

**Advocate J D McVeigh appeared for the Crown  
Advocate S E Steel appeared for the Defendant**

**LIEUTENANT BAILIFF:**

**Background**

You come before this court a second time for offences of possessing indecent photographs/images of children.

On 17 January 2019, you were sentenced on an Indictment containing 7 counts, involving downloading images, one count of distributing an indecent image and one count of possession of an indecent image. This court sentenced you to 18 months' imprisonment with a 10 year Notification Order and a 3 year Extended Sentence with conditions. You were released on the 30 October 2019. One of the conditions, a pretty standard one in such cases, was not to possess any computer or device for accessing the Internet, or any messaging service, board or forum.

On 5 February 2020, an unannounced visit – and we are pleased to note that these orders are effectively monitored – by the Police and Probation officer, caught you with a mobile phone which was Internet-enabled, in breach of this condition. You were recalled to Prison for this. The examination of this mobile phone revealed sexualized chat concerning underage children, an image of an underage girl touching her genitals and an image of an underage girl posing in the nude. Also 47 so-called borderline-type images of underage girls were revealed.

In terms of classification, they are now category B (formerly SAP 2 and 3) and category C (formerly SAP 1 in the past). The maximum penalty on each of these two counts is 5 years' imprisonment.

You are a 38 year old local man with a long list of other convictions, including theft, assault, handling and damage. You have been in custody since recall on the 6 February 2020. You admitted the offences and timely guilty pleas were indicated.

We have heard that on 5 February 2020 you received a borderline image of a young girl, not well-developed, in her underwear. This led to disgusting sexualized chat with another perverted individual, which we have heard about.

### **Sentencing Considerations**

As you are aware, we are bound by the leading guideline case of Wicks [2011-12 GLR 482]. We note that case does not, however, provide guidelines on possession of indecent images (see paragraph 36 of the judgment) but “no doubt the guidelines will provide general assistance to the Magistrate’s Court and Royal Court in such cases”; and, these are only guidelines, “not a straitjacket”. But the case Wicks also includes (at paragraph 49) that a previous similar conviction is regarded as significant aggravation. In a case like this, where it didn’t take you long to reoffend and breach your Extended Sentence Order, that is particularly relevant.

You present, according to the excellent Probation Report, as posing a high likelihood of general re-offending. It is noted, (see paragraph 10 of this report), that your engagement with therapeutic intervention was only superficial, which is evident from your swift re-offending and the other points made there which raised strong concerns about your attitude.

It is, however, only fair to point out that the two images, the subject of the two counts today, though unpleasant and illegal, especially when reading your dialogue, which we have already referred to, are not as serious as the totality of the 7 counts for which you were sentenced back in 2019. But any re-offending, and quick re-offending, plus breach of your Extended Sentence condition is very serious, and, as stated, a very significant aggravating factor.

This goes to enhance our starting-point to reflect this, and we arrive at a total of 4 years’. Had these been first offences, the sentence starting-point would be much lower. But, on the individual facts of this particular case, we are entitled to take a serious view of these new offences.

### **Mitigation**

We are obliged to give credit for the early pleas. They were inevitable, after those checking you actually heard the device ‘pinging’. Hence we limit the discount, but one is still appropriate. We note the submissions of your learned Advocate, and, as stated, a most helpful Probation report. We make the discount around 30% in all the circumstances – each case varies and it is not a mathematical exercise.

### **Sentence**

We cannot improve on the words used by the then Deputy Bailiff, giving the sentence of the Court on 17 January 2019:

“This Court, along with any right-thinking person, regards these types of offences as abhorrent and revolting. Inevitably, a young person has been subjected to unnecessary degradation and abuse. We are satisfied that there should be an element of deterrence in the sentences given by this Court.”

You don’t learn from your mistakes do you? Further re-offending will inevitably lay you open to significantly higher sentences. We have no sympathy for you, only the victims. You need to fully engage more effectively with those seeking to change your behaviour.

We follow the totality principles and sentence you:

- On Count 1 to 2 years and 9 months’ imprisonment, and
- 18 months’ concurrent on Count 2.

- Total: 2 years and 9 months' imprisonment.
- Mercifully in all the circumstances, this will commence from your first appearance on 14 September 2020.

### **Extended Sentence**

We concur with the Probation Officer's recommendation for a further Extended Sentence Order for 3 years. We point out that whilst we value recommendations we decide on them for ourselves and they are not a 'rubber stamp'. Such an Order is necessary in the present case.

We impose the additional conditions set-out by the Probation report. They are proportionate and necessary on all the facts before us today. Mr Fox, you know what an Extended Sentence is – you have had those requirements given to you and the Additional Conditions are right.

(Advocate Steel confirmed he had given his client a copy of the written Notice and Notification Order, so it was not necessary for them to be read out again because Mr Fox had heard them so recently.)

In order not to extend the statutory maximum, we make the Extended Sentence on Count 2 to avoid any tedious technical appeals which would waste everybody's time.

We also concur in a 10 year Notification requirement, which has to be with effect from your guilty pleas, i.e. 22 October 2020. As you have restarted the clock yourself by re-offending, they start from then. Again, the conditions of the Notification Order have no doubt been explained to you by your Advocate and you received it in the past and therefore all those will apply and you will know what that involves and if you reoffend, then you will be back here and get very very serious heavy sentencing.

The total then in respect of these matters is:

- On Count 1 - 2 years 9 months' imprisonment from 14 September 2020
- On Count 2 - 18 months' concurrent, similarly starting from 14 September 2020
- Total: 2 years and 9 months' imprisonment
- 3 year Extended Sentence (which technically has to be on Count 2 in view of the legislation)
- 10 year Notification Period from the 22 October 2020 (date of plea)
- Forfeiture as requested by the Crown.

**John Russell Finch, Esq., O.B.E.,  
Lieutenant Bailiff**

**18 December 2020**