

Making indecent photographs of children, contrary to section 3(1)(a) of the Protection of Children (Bailiwick of Guernsey) Law, 1985, as amended; distributing indecent images of children contrary to section 3(1)(b) and possessing indecent images of children contrary to section 3A(1) of the aforementioned law.

[2021]GRC016

**ROYAL COURT
FULL COURT**

12 February 2021

**Before: Richard James McMahon, Esq., Bailiff and:
Stephen Murray Jones OBE, Jonathan Grenfell Hooley,
Joanne Marie Wyatt, Alan Stevenson Boyle, David John Robilliard,
Stuart Michael Crisp, Tina Jane Le Poidevin, Felicity Jane Quevâtre-Malcic, Jurats.**

THE LAW OFFICERS OF THE CROWN

- v -

**MATTHEW JOHN MAUGER
(D.O.B. 15.04.1984)**

**Crown Advocate F M Russell appeared for the Crown
Advocate P F Cobb appeared for the Defendant**

BAILIFF:

Background

Matthew Mauger, you have pleaded guilty to an indictment containing nine Counts. The first three of those Counts relate to making indecent photographs of children contrary to section 3(1)(a) of the Protection of Children (Bailiwick of Guernsey) Law, 1985, as amended. By way of explanation, this reference to “*making*” is used here in a technical sense, meaning downloading the images and storing them on your devices, and does not refer to taking or producing them. The second three Counts relate to distributing indecent photographs of children contrary to paragraph (b) of that subsection. Each of the offences in these six Counts is punishable by a maximum sentence of 10 years’ imprisonment. The final three Counts relate to possessing an indecent photograph of a child contrary to section 3A(1) of the 1985 Law, for which the maximum sentence is five years’ imprisonment.

You are a single local man, now aged 36. Although the distribution and possession offences relate to specific dates last year, the period covered by the first three Counts relating to making indecent images all start at the beginning of 2009, at which time you were 24 and run to when you were arrested on 22 September 2020. Having trained in art, you had been working for years as a stonemason until you were arrested, when you chose to resign your employment. Whilst you have some previous convictions, none is relevant to this type of offending.

Your offending came to light when you left your mobile telephone behind after attending a party on 17 September 2020. Although this mobile was returned to you, the police had been informed that it was suspected it contained unlawful images, and this Court commends the person who did this for taking that proactive stance in reporting this matter. It led to your arrest on 22 September 2020, following which your home address was searched and multiple devices and storage cards were seized.

When these were subsequently analysed, the images that form the basis of all the Counts you have admitted were discovered.

These images are now grouped into three categories by reference to the Child Abuse Images Database. The most serious is Category A, which includes penetrative sexual activity, sadism or sexual activity between children and animals. Category B covers non-penetrative sexual activity and Category C covers all other indecent images not in the first two categories. The first batch of three Counts relating to making, cover each of these categories, where the numbers of images, across Categories A to C, are 254, 107 and 4,296 respectively. The three distribution Counts cover three video images and two still images, where one of the video images is Category C and the rest of the images are all Category A. The three possession Counts also cover each of these categories, where the numbers are 1, 155 and 32 respectively. These are the numbers of images on which we sentence, although it is clear that there were higher numbers that could have been found had the time-consuming investigation been continued.

At your first appearance before the Magistrate's Court on 23 September 2020, you were remanded in custody whilst the investigations were being undertaken, and were then admitted to conditional bail on 5 October 2020. Your guilty pleas were entered on your first appearance in this Court on 23 December 2020.

Sentencing Considerations

In 2012, the Court of Appeal provided guidelines in relation to sentencing in indecent images cases in Wicks, Sharp and Towers, to which this Court has regard.

At that time, reference was made to five levels of seriousness. Levels 4 and 5 were the most serious and are now reflected by reference to Category A from CAID. Levels 2 and 3 have become Category B and level 1 corresponds to Category C.

The first three most serious Categories referred to in Wicks are not engaged in your case. Paragraph 22 explains that the guidance extends to the other limbs of section 3(1) and not just making and when referring to the premises on which the "initial figure" has been based, we have taken into account the bases set out in paragraph 41 for doing so.

The first of the bands of sentences set out in paragraph 37 in Wicks to which we have regard is Category 4, which now covers making an image within CAID Category A, where an initial figure in the region of 3 years' imprisonment is indicated. The first Count is such an offence. Category 5 is in respect of images within Category B, and so relates to Count 2, where an initial figure in the region of 18 months' imprisonment is indicated. Category 6 covers images within Category C, and so relates to Count 3, where the guideline suggests "*a fine or community sentence preferably with a condition of treatment. If any relevant aggravating factor is present, the court may feel that the custody threshold is passed and may consider a sentence of up to 6 months' imprisonment.*" However, this is of less relevance where there are images in the more serious Categories and we are satisfied that the custody threshold is clearly passed here in relation to all your offending.

Counts 4 to 6 involve distribution, four of which are at the Category A level. These two Counts similarly fall within Wicks Category 4, where the initial figure, as already stated, is in the region of 3 years' imprisonment.

Some of the aggravating factors mentioned in paragraph 38 are present in your case. In particular, the number of images is large, which indicates a high level of personal interest in such images and/or a significant period of time over which the images have been collected. We note that "*any number of images above 100 [is regarded] as constituting a large number*". This aggravating factor applies to each of the first three Counts. Although the highest number of images is in Category C, we have concentrated on the number of images in the more serious Categories as being the principal

aggravating factor. As regards the distribution, we have further noted the reference to transactions being limited to two or three individuals, which makes these three Counts on the borderline as to whether this amounts to “*wide-scale distribution*”. In the circumstances, we do not regard what you have done as being on a particularly wide scale. Accordingly, we have viewed this factor in the light of the fact that we are satisfied that you have had an interest in trading these images and potentially for financial gain. However, the most significant aggravating factor relates to the numbers of images made over such a long period of time.

Having regard to the totality principle, we have started with the most serious of these offences, Count 1, and had regard to these aggravating factors, including those other Counts relating to distribution, which we consider makes your overall offending more serious than if there had been no distribution involved. In those circumstances, we are satisfied that it is appropriate to take as our starting point for Count 1, 4½ years’ imprisonment, before considering mitigation. Similarly, for Count 2, we adopt a starting point of 27 months’ imprisonment and for Count 3 we use a starting point of 9 months’ imprisonment.

For the distribution Counts, because the numbers of transactions involved are not high, we will adopt an initial figure or starting point of three years’ imprisonment for Counts 4 and 5, being the Category A images.

In respect of the three possession Counts, noting the lower maximum sentence, we take starting points appropriately scaled down, but these are largely academic where the sentences are to be concurrent and, before leaving *Wicks*, we have further noted the comment in paragraph 55, that the Court of Appeal did “*not consider it appropriate to treat holding for “personal use”*” as a mitigating factor.

Mitigation

We have had regard to everything that has been said about you and on your behalf by Advocate Cobb.

We have also taken into account what is written about you in the Probation Report. In doing so, we note the assessment that there is a moderate likelihood of general re-offending, that further assessment is needed to gain a full understanding of the pathology of your offending behaviour in relation to your sexual interest in pubescent, and potentially pre-pubescent, children, but that you do not present a risk of harm to the public by way of physical violence or aggression.

Your use of pornography has been described as an addiction where over time you became desensitised to what you were continuing actively to seek. You state you have tried to stop your use of pornography but this has not extended to seeking professional help by engaging with the mental health services so as to seek support. Having been caught, you do now regret your actions. After some initial reticence, we accept that you have generally cooperated with the investigation and we treat you as if you were of previous good character for this offending.

The probation report confirms that you recognise the likelihood of a custodial sentence today. Whilst we will afford you full credit for your early guilty pleas, there is comparatively little other mitigation we can find on your behalf.

Sentence

Matthew Mauger, it is apparent to the Court that you have spent the bulk of your adult life getting immersed deeper and deeper into the search for and use of indecent images of children. This Court regards these types of offences as truly abhorrent and revolting, and for which there can be no excuse. The number of images involved is quite high and people like you should reflect on the fact that, for each photograph that does the rounds, a young person has been subjected to unnecessary degradation and abuse. You have contributed to that through trading some of the images. Moreover, your practice of storing images as trophies of your so-called captures is certainly not the action of a good

citizen. Any efforts you have made to date to address your addictive behaviour have been inadequate and so it may even be a relief that you have now been caught so that this can be properly addressed. We remain satisfied that there should be an element of deterrence in the sentences given by this Court.

We have adopted a totality approach, on the basis that all these offences are part and parcel of an overall pattern, but extending over a very lengthy period of time. Consequently, the custodial sentences that were always inevitable for this level of offending will be made to run concurrently.

In respect of Count 1, for making Category A indecent images, the sentence imposed is 3 years' imprisonment.

In respect of Count 2 (making Category B images), the sentence will be 18 months' imprisonment.

In respect of Count 3 (making Category C images), the sentence will be 6 months' imprisonment.

In respect of Count 4 (the distribution Count), we impose a sentence of 2 years' imprisonment.

Similarly, in respect of Count 5, the sentence will be 2 years' imprisonment.

In respect of Count 6, there will be a shorter sentence of 3 months' imprisonment imposed.

In respect of Count 7, the sentence is 12 months' imprisonment.

In respect of Count 8, 9 months' imprisonment.

And finally, in respect of Count 9, 1 month imprisonment.

All of these sentences are to run concurrently, meaning that, in total, the sentence will be 3 years' imprisonment.

We will factor into that sentence that you have already spent some 12 days on remand, so we treat you as having started these sentences as if from the start of this month.

The Crown's application pursuant to section 3 of the Police Property and Forfeiture (Bailiwick of Guernsey) Law, 2006 in respect of the mobile telephone, the Dell and Acer laptops, the Huawei tablet, the two hard drives, the SD card and three micro SD cards and the USB memory stick is also granted. The Court notes that this was not resisted but in any event, the Court is satisfied that these items were lawfully seized at the time and that the analysis of them shows they have been used for the purpose of committing or facilitating the commission of an offence and we have had regard to what we think would be the comparatively low value of this property and the likely financial and other effects on you of making the order before deciding to grant the Crown's application.

Extended sentence

The Court has carefully considered the recommendation in the Probation Report for an extended sentence under section 3 of the Criminal Justice (Supervision of Offenders) (Bailiwick of Guernsey) Law, 2004. We agree with the assessment of you that the usual period of supervision after sentence would not be adequate for the purpose of preventing the commission of further offences and securing your rehabilitation. Accordingly, the Court is imposing such an extended sentence. This has two elements: the custodial term of 3 years' imprisonment, followed by an extension period after your release throughout which you will be subject to an Extended Sentence Licence. The extension period shall be for the period recommended of 3 years, thereby enabling completion of what will have begun whilst you are a serving prisoner, as well as monitoring and addressing your progress after release. If upon your release from Prison you fail to comply with the conditions in the Extended Sentence Licence, or are convicted of a further imprisonable offence, the Court sentencing you or the Parole

Review Committee, can revoke the licence, in which case you would be returned to custody for the remainder of your sentence.

The conditions of the extended sentence are the standard ones, namely:

- To be well behaved and not to commit any offence and not to do anything which could undermine the purposes of your supervision, which are to protect the public, prevent you from re-offending and help you to re-settle successfully into the community.
- To keep in touch with your supervising officer in accordance with any instructions you may be given.
- If required, to receive visits from your supervising officer at your home.
- Permanently to reside at an address approved by your supervising officer and notify him or her in advance of any proposed change of address or any proposed stay (even for one night) away from that approved address.
- To undertake only such work (including voluntary work) approved by your supervising officer and notify him or her in advance of any proposed change.
- Not to travel outside Guernsey without prior permission of your supervising officer (which will be given in exceptional circumstances only).

In addition, the Court will add the further conditions recommended by the Probation Officer, which are:

- “1. *To comply with any requirements specified by your supervising officer for the purpose of ensuring that you address your sexual offending behaviour problems.*
2. *Not to possess or use a computer or other electronic device for the purpose of accessing the Internet or have access to instant messaging services or any other on-line message board or forum or community, without the prior approval of your supervising officer.*
3. *Not to delete the usage history of any internet enabled device or computer and to allow such items to be inspected and removed as required by the police or your supervising officer.*
4. *Not to have any contact directly or indirectly by any means (including electronic communication) with any child under the age of 18 years without prior permission of your supervising officer, other than such contact which is inadvertent and not reasonably avoidable in the course of lawful daily life.”*

Notification

Having been convicted of a relevant offence, you become subject to the notification requirements under Part II of the Criminal Justice (Sex Offenders and Miscellaneous Provisions) (Bailiwick of Guernsey) Law, 2013.

We follow the recommendation of the probation officer that the notification period should be 7 years, which runs from the date of your guilty pleas to those relevant offences on 23 December 2020. This period is a precaution against any risk you may pose and can be further extended. You will be given a written notice setting out all the requirements of being a notifier, but in summary they are:

- You are now required by Law to notify the Police within 24 hours of your name, any other names that you use, your address, your date of birth, your social security number, your passport details, your bank account details and your employment details. If asked to do so,

for verification purposes, you must allow your fingerprints, photograph and/or a DNA sample to be taken.

- You must notify the Police of any change of name or home address at least 24 hours in advance of the change occurring, or within 24 hours if you had no prior knowledge of the change occurring.
- You must notify the Police of any address where you reside or stay for 7 days or longer. This means either 7 days at a time or a total of 7 days in any 12-month period.
- You must notify the Police of your details every 12 months on the anniversary of your initial notification, even if there is no change in these details.
- You must notify the Police at least 7 days in advance of any plans to travel abroad.

Richard J McMahon
Bailiff

12 February 2021