

Sending of indecent messages, contrary to the Telecommunications Law, 2001 and inciting a child to commit an act of gross indecency, contrary to the Protection of Children Law.

[2022]GRC079

**ROYAL COURT
FULL COURT**

11 May 2022

**Before: John Russell Finch, Esq., O.B.E., Lieutenant Bailiff and Jurats:
Steven John Morris, David James Mortimer, Joanne Marie Wyatt, David John Robilliard,
Stuart Michael Crisp, Marilyn Jasmine King, Paul Martin Burnard, Heather Reed,
Simon Ernest Bodkin.**

THE LAW OFFICERS OF THE CROWN

- v -

DANE LUKE ROBILLIARD GAUVAIN

**Advocate C G Dunford appeared for the Crown
Advocate C J Fletcher appeared for the Defendant**

LIEUTENANT BAILIFF:

Background

You appear here today on an Indictment containing 7 Counts:

- Counts 1, 2, 5 and 7 are the sending of indecent messages, contrary to the Telecommunications Law, 2001. The maximum penalty for an offence is 2 years' imprisonment.
- Counts 3, 4 and 6 are inciting a child to commit an act of gross indecency, contrary to the Protection of Children Law. The maximum penalty for an offence is 5 years' imprisonment.
- Counts 1 to 4 relate to the same victim, a boy, aged 14 at the time.
- Count 5 relates to another boy aged 15 at the time.
- Count 6 relates to another 14 year old boy at the time.
- Count 7 relates to an image on Snapchat posted by yourself, seen by a number of children, including a 14 year old girl at that time. This was committed whilst you were on Police bail and under investigation.

You are a local person, now aged 21 years. The offences we note took place when you were a young person, aged 18-19 years. You are of previously effectively good character, for the purposes of sentencing today.

We have heard the history of the case. You were charged on 3 August 2021 and originally mixed pleas were indicated. A revised Indictment was produced, and guilty pleas to that were entered at a Plea and Directions Hearing on 27 January 2022, and the case was then adjourned to today.

This was, as the Prosecution say, a long investigation. A considerable part of any delay was caused by your refusing to own-up when interviewed on numerous occasions by the Police. This made a long and complex investigation necessary.

As indicated, Counts 1 to 4 involved the same boy, then aged 14 years. We have heard the details fully set-out on all the Counts by the Prosecution in their Outline. We need not repeat everything referred to about these 7 offences.

Various Orders have been asked for. We do not act as some sort of rubber stamp in response to recommendations but consider them carefully in each case. They must be proportionate but also achieve the aim of safeguarding potential victims of your offending. In view of the facts, plus the observations of both Dr Briggs and the Probation Officer, we consider the following Orders merited and appropriate in the circumstances of your offending.

Sentencing Considerations

Sentencing is a most difficult decision for the Court to make, bearing in mind its duty to protect the public. Nevertheless, on fairly considering all the circumstances, including the excellent reports, we are just about able to secure the protection of the public by way of a rigorous community penalty with conditions that must be complied with. This is not an easy option. If you don't comply and if you don't do everything we set out, you will be back here and in deep trouble. We have carefully considered whether immediate custody was necessary and, this decision was not an easy one. Now listen to what I say on behalf of the Court. This is not a 'let-off' far from it and to say it is, is simply wrong. We have, as stated, public protection very much in mind.

Sentence

So, on each of the 7 Counts, the sentence is 3 years' Probation, plus the onerous and demanding conditions proposed in the Probation Report which we agree with. You will be getting this in writing (along with a further Order we are going to make but I am setting them out so you understand and anyone who looks at the case understands just how rigorous and firm these conditions are), but we will read them out so everyone including you, understands just exactly what you have got to do:

1. 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 1 night away from that approved address.
2. To comply with any requirement specified by your supervising officer for the purpose of ensuring that you address your sexual offending behaviour problem.
3. Not to have any contact, directly or indirectly, by any means, with any child under the age of 16 years, without the prior permission of your supervising officer, other than such contact that is inadvertent and not reasonably avoidable in the course of lawful daily life. (So, if you went into a sweet shop and bought something there and the person happened to be of that age, that is an inadvertent thing and that is in the course of normal life. What you don't do is seek them out.)
4. Not to possess or use a computer or other electronic device with the purpose of accessing the internet or have access to instant messaging services, social media platforms or any other on-line message board, forum or community, without the prior approval of your supervising officer.
5. 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.
6. To allow the installation of monitoring software, where available, on any internet enabled device, or computer, if deemed necessary by your supervising officer.
7. Not to use any Cloud or similar remote storage media, capable of storing digital images or communications, unless within 48 hours of the creation of an account for such storage, you

notify the Public Protection Unit and/or Probation Service of that activity and provide ongoing access to it.

8. Not to have any contact directly or indirectly, by any means, with the named victims in this case without the prior permission before of your supervising officer.

Those are the conditions on the Probation Order. There are additional conditions. The main condition is that you do not reoffend. If you reoffend in any way at all, if you do any more crime, you will be back here and you will find the Court won't be so disposed to make a community penalty.

As these conditions cover what a Sexual Offences Prevention Order (SOPO) would do, we don't duplicate them in such an Order, even if the application was a correct one, as there is no point in having two Orders saying the same thing. But we do impose a Notification Order, as suggested, for 7 years, from 27 January 2022, when you pleaded guilty. The requirements here are also strong and I will summarise them. You will also get a copy Notice with them all on, but I want you to understand, and the Court, the Jurats and myself, want anyone who receives this case to understand, just how tough these requirements are and if you fail to comply with them, you will be back here and in deep trouble.

- You are now required by Law, during that 7 year period dating from when you pleaded guilty, to notify the Police within 24 hours; or within 24 hours of release if you are in Prison or otherwise detained, 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. (This will be given to you in writing but that means you don't have any choice – you have got to do it otherwise you are back here.)
- 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. (There are conditions relating to that which I have just read on your Probation Order.) You must do so by going in person to the Police station unless otherwise informed in writing by the Guernsey Police.

If you fail to comply with these requirements without a reasonable excuse, or give information which you know to be false or misleading, you will be liable to prosecution and could be fined or sent to prison. I have set these out and I repeat for the third time, you will get them in writing.

I want you to understand very clearly that if you fail to obey any of the conditions we have read out or reoffend in any way, you will be punished severely back here. You are also subject to multi-agency and public protection arrangements where the various agencies will co-operate and discuss what is best to protect the public. We make an Order for forfeiture as requested by the Prosecution – it is appropriate in the circumstances and also, having considered all the details of the case, we express thanks to the investigating officer for her hard work in this complex matter and I would be grateful if that was passed on.

A word about vigilantes - we express our concern that this sort of thing occurs. If it is brought to the Court's attention, it will be dealt with firmly. We have no truck with this sort of behaviour – it should not exist in Guernsey. I hope we have set out, very carefully, on behalf of all the Court, you are not

‘let-off’ as in effect you are ‘tied-down hand and foot’. If you do anything at all wrong, it is straight back here and these excuses that we have heard won’t be used again. That is the Order of the Court:

- **3 years’ Probation with extra conditions;**
- **7 years’ Notification from when you pleaded guilty in January 2022;**
- **Plus the Forfeiture.**

If you have any problems, your Advocate and the Probation Officer will be able to explain what these Orders mean and will go through them with you so you understand each and every part of them. Don’t come back here in the next 3 years or indeed at any time. I will personally warn you of that and I will personally say, on my own behalf, just speaking as a Judge, that I have a long memory and if people don’t obey the Orders I impose on behalf of the Court, I have a very nasty disposition. So get that and understand it. I am not a soft-touch and nor is anyone else here. But we think this will protect the public by restricting all your activities and punishing you if you don’t do what you have just been told that you have to do.

J R Finch, O.B.E.
Lieutenant Bailiff

11 May 2022