

Seven counts of making indecent photographs of children, contrary to 3(1)(a) of the Protection of Children (Bailiwick of Guernsey) Law, 1985.

**[2024]GRC012**

**ROYAL COURT  
FULL COURT**

**21<sup>st</sup> February, 2024**

**Before: Catherine Maureen Fooks, Judge of the Royal Court  
and Jurats: Steven John Morris, David John Robilliard,  
Marilyn Jasmine King, Heather Reed, Simon Ernest Bodkin,  
Jillian Clark and Richard Jeremy Wallen James**

**THE LAW OFFICERS OF THE CROWN**

**- v -**

**BARRY WILLIAMS**

**Crown Advocate S G Watson appeared for the Crown**

**Advocate S E Steel appeared for the Defendant**

**JUDGE OF THE ROYAL COURT:**

**Background**

Mr Williams you appear today to be sentenced in respect of an Indictment containing 7 counts of making indecent photographs of children between 11 December, 2021 and 21 February, 2022, contrary to 3(1)(a) of the Protection of Children (Bailiwick of Guernsey) Law, 1985, as amended. The maximum penalty is 10 years' imprisonment and/or a fine of level 5. Reference to making indecent images is used here in the technical sense, meaning downloading the images onto your devices and does not refer to taking or producing them.

The images are now grouped into three categories by reference to the Child Abuse Images Database ("CAID"). The most serious is Category A, which includes penetrative sexual activity, sadism or sexual activity between children and animals of which there were 332 still images and five videos on the tablet. Category B covers non-penetrative sexual activity of which there were 369 still images and one video on the tablet. Category C covers all other indecent images not in the first two categories, of which there were 305 still images, two videos on the tablet and two videos on the phone. The total number of images, both stills and videos, exceeds 1,000 and this does not represent all the images found on your devices but only those graded. Grading of 999 of those images was by hand, an unpleasant task for the officers and which has an impact on them. We sentence on what is in the Indictment.

The facts have been set out in full in the Prosecution outline. Your IP address was identified as involved in downloading indecent images of children so your devices were seized when you (and your wife and son) were arrested on 24 August, 2022. The images were live and had not been deleted and were on your desktop. You had made use of torrenting and other software which allows sharing of images with a level of anonymity. Evidence points to you having recorded some live streaming videos for later offline viewing and of your having moved images on dates prior to the period of the Indictment into specific files, the latter putting your knowledge of them beyond question. There was evidence of some search terms connected with indecent images of children. The file names were consistent with indecent content.

You were interviewed three times, in the course of which you admitted that the devices were yours and gave the passcodes but your answers were somewhat inconsistent. You asserted a self-diagnosed addiction to adult pornography, in the course of which you had found and downloaded some indecent images of children, as the next step in your porn addiction. You claimed that you had stopped accessing any pornography 18 months prior, which from the dates on the Indictment was clearly not the case. You also claimed to be shocked by the number of the images. You denied downloading them and you questioned how they had been downloaded.

You are a Londoner of 59 years of age, 56 – 57 at the time of the offences. You are unemployed now. You are estranged from your wife and son. You have no previous convictions. You were on conditional bail throughout the proceedings.

### **Sentencing Considerations**

This Court continues to apply the guidance from the 2012 Court of Appeal case of Wicks, Sharp and Towers. Adopting that guidance, the initial starting point for the making of the Category A images will be 3 years, the category B 18 months and the category C 6 months, as the number of images is an aggravating factor justifying that starting point.

Most of the aggravating factors set out in the case of Wicks, Sharp and Towers are not present in your case. The only aggravating factor of any significance is that mentioned in paragraph 40 of Wicks which is present, that is to say the number of the images, which is large as per the definition in Wicks, which says “*any number of images above 100 is regarded as constituting a large number*” and this aggravating factor applies to three of the Counts and two of the Counts when taken together.

Having regard to the totality principle, we have started with the most serious of these offences; Count 2 the making of the significant number of Category A images and that starting point has been increased to take account of the other Counts of making the images and the aggravating factor of numbers, which I have just mentioned. The starting point for Count 2 is therefore aggravated to 4½ years and we will pass concurrent sentences for the remaining Counts.

### **Plea**

You are not entitled to full credit, even taking into account of what is said in Towers and Wicks for your guilty plea because you did not enter guilty pleas at the earliest opportunity, but sought to argue that you were unaware of the images. Your guilty pleas were entered the best part of a year after your committal and after a trial had been set and vacated. Nonetheless, your guilty pleas did spare all concerned a trial. We give you credit of 20%.

### **Mitigation**

The Court has considered carefully the Probation report prepared in respect of you and listened to the succinct and focused admissions of your Advocate. Your best mitigation is that you are a mature man with no previous convictions. Historically, you have had a good work ethic. You provided your PIN and you have voluntarily surrendered your devices. We note the events in your past, the mental health

struggles and loss of employment, which seem to have been particularly acute at the time of the offences, as well as your sleep apnoea. We note the impact of the offending on your family relationships.

You say that you are not attracted to children and that appears to be accepted by the Probation Officer, who indicates that there is no risk of sexual harm directly to children in the community. You are assessed as understanding the impact of sexual abuse on children and of being motivated to address your use of pornography. You are assessed as posing a low likelihood of general re-offending. A further assessment of sexual risk must be undertaken. You will be managed by MAPPA.

## **Sentence**

The offences committed by you are abhorrent and you are right to be disgusted by your own offending. For each image that has been created, a young person has been subject to abuse and the downloading ensures the continuation of that cycle of abuse. Society demands that those who commit such offences are punished and the sentencing starting points include an element of deterrence.

As your Advocate acknowledged, Mr Williams, you have only yourself to blame for the disgrace you have brought on yourself and the hurt which has been caused to your family by your offending. You must accept responsibility for that offending and engage with the professional work which has been offered to you and which is necessary. In view of the seriousness of the offending, non-custodial alternatives are not appropriate.

In sentencing you, the Court is concerned to prevent re-offending, so there is considerable emphasis on your rehabilitation. There will be an Extended Sentence Licence.

Taking into all of the above and applying the appropriate discounts, the sentences will be as follows:

- In relation to Count 2 first, which we have taken as the lead offence. The sentence will be one of 3 years' immediate custody with effect from today.
- In relation to Count 1 - 2½ years' immediate custody, concurrent.
- Count 3 – 6 months' immediate custody, concurrent.
- Count 4 – 18 months' immediate custody, concurrent.
- Count 5 – 2 months' immediate custody, concurrent.
- Count 6 – 6 months' immediate custody, concurrent.
- Count 7 – 4 months' immediate custody, concurrent.

That makes a total of **3 years' immediate custody from today.**

## **Extended Sentence Licence**

Having considered the recommendation in the Probation report, with which the Court agrees, we consider that the usual period of supervision after sentence would not be adequate for the purpose of the preventing the commission of further offences and securing your rehabilitation. Consequently, the Court is imposing an extended period of imprisonment in relation to these offences. This has two elements – the custodial term followed by an extension period after your release. The extension period will be for the period of 2 years, thereby enabling the completion of the work begun whilst you are in prison, as well as monitoring and addressing your progress after release.

If upon release, you fail to comply with the conditions of 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 could be returned to custody for the remainder of the sentence.

There are some standard conditions for the Extended Sentence Licence:

1. To be well behaved and not commit any offence and not to do anything which would undermine the purposes of your supervision, which are to protect to the public, prevent you from re-offending and help you to resettle successfully into the community.
2. To keep in touch with your Supervising Officer in accordance with any instructions you may be given.
3. If required, to receive visits from your Supervising Officer at your home.
4. 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.
5. To undertake only such work (including voluntary work) approved by your Supervising Officer and notify him or her in advance of any proposed change.
6. Not to travel outside Guernsey without prior permission of your Supervising Officer (which will be given in exceptional circumstances only).

There are additional conditions which are added, which the Court considers to be necessary, not oppressive and proportionate, as follows:

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 any device capable of accessing the internet without the prior approval of your Supervising Officer.
3. Not to delete the usage history on any internet enabled device or computer used with or without the permission of your Supervising Officer and to allow such items to be inspected as required by the Police or your Supervising Officer. Such inspection may include removal of the device for inspection.

The Crown's application, pursuant to Section 3 of the Police Property and Forfeiture (Bailiwick of Guernsey) Law, 2006, which was not resisted, in respect of the lawfully seized Huawei tablet and Redmi phone, each valued at £50, which clearly relate to the offences is also granted, the Court having considered the likely effects on you of forfeiture.

When you were convicted of relevant offences under the Criminal Justice (Sex Offenders and Miscellaneous Provisions) (Bailiwick of Guernsey) Law, 2013, you became subject to the notification requirements under Part II of that Law, with effect from 11 December, 2023. We now set the Notification period and we follow the recommendation of the Probation Officer, that it should be 5 years running from that date period, as a precaution against any risk you may pose and can be further extended. You will be given another written notice setting out all the requirements but in summary they are as follows:

1. You should by now have provided the Police with your personal details, as required by Law and explained to you when you were convicted.

2. Within 24 hours of your release (if you have not already updated them) you must provide the Police with your personal details, as set out on the notice, together with any samples required.

The following conditions apply after your release:

3. 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 that change.
4. You must notify the Police of any address where you reside or stay for 7 days or longer, whether that is 7 days at a time or a total of 7 days in any 12-month period.
5. You must give the Police your details every 12 months on the anniversary of the first notification, which is 11 December, 2023, even if there is no change in the detail.
6. You must notify the Police at least 7 days in advance of any plans to travel abroad.

If there is any conflict with the Extended Sentence Licence that order takes precedence.

In summary, the total sentence is:

- One of Imprisonment of 3 years from today, together with
- An Extended Sentence Licence of 2 years.
- Forfeiture of the tablet and phone; and
- Notification of 5 years.

**Catherine Maureen Fooks**  
**Judge of the Royal Court**

**21<sup>ST</sup> February, 2024**