

Making indecent images of children contrary to section 3(1)(a) of the Protection of Children (Bailiwick of Guernsey) Law, 1985 and contrary to section 105(1)(a) of the Protection of Children (Bailiwick of Guernsey) Law, 2020. All three categories of indecent images were found, A, B and C.

[2023]GRC082

**ROYAL COURT  
FULL COURT**

**24<sup>th</sup> November, 2023**

**Before: John Russell Finch, Esq., O.B.E., Lieutenant Bailiff and Jurats:  
Jonathan Grenfell Hooley, Stuart Michael Crisp, Paul Martin Burnard,  
Felicity Jane Quevâtre, Heather Reed, Simon Ernest Bodkin,  
James Robert Toynton, Jillian Clark and Richard and Jeremy Wallen James.**

**THE LAW OFFICERS OF THE CROWN**

**- v -**

**Stewart Martin PEROWNE**

**Advocate P F Cobb appeared for the Crown  
Advocate P Lockwood appeared for the Defendant**

**LIEUTENANT BAILIFF:**

**Background**

You appear here today for sentence on an Indictment containing six counts, each of making indecent images of children. The maximum penalty on each is 10 years' imprisonment. Indecent images are classified in accordance with the following:

- Category A images are the most serious. This category comprises images which involve penetrative sexual activity, or sexual activity with an animal, or sadism. There were 964 such images.
- Category B images comprise images defined as involving non-penetrative sexual activity with children. There were 959 such images.
- Category C images comprise all other indecent images of children e.g. posing with sexualised children and no explicit sexual activity. There were 70,238 such images.

It must be pointed out that counts 1 to 3 concern images made before 1 March 2022 and which fall under the previous 1985 Law. Counts 4 to 6 concern images made under the present 2020 Law. Each charge is of one of the categories.

You are a 51 year old local man with no previous convictions and timely guilty pleas were entered after you made admissions to the Police, following the execution of a search warrant to your premises. You have been on unconditional bail throughout.

Your devices were examined and the large number of indecent images found. The earliest from 2014 and the latest from 25 November 2022, when the search warrant was executed. We have seen a full copy of the digital examination report. The number of images was 72,161 as shown. These are classified as accessible files i.e. within a folder and not permanently deleted. We point out that the word ‘made’ in the charges does not mean that you physically produced them but they were downloaded into folders. The folders had titles describing their content as we have heard e.g. “Lolita”. The internet history on the Toshiba laptop and desktop tower showed access to websites advertising indecent images of children. Also, current files were identified which allow the sharing of data files between users with a layer of anonymity. Key words such as “Lolita”, “PTHC” i.e. pre-teen hardcore and “11YO” i.e. 11 years old, were found.

As stated, you made full admissions including that you had recently increased the time you spent accessing indecent images. You explained that from about 18 months’ earlier, content on the web was blocked so you went onto the so-called ‘dark web’. You apologised in your interview. We have found it necessary to go over these facts in some detail so as to explain the nature and extent of your offending.

### **Sentencing Considerations**

The Royal Court is bound by the leading case of Wicks and Others [2012], a seven-judge Court of Appeal. The classification system has changed but we must still comply with what was laid down there.

- In respect of Category A images, there is therefore a starting point in the region of 3 years’ imprisonment.
- In respect of Category B images, there is a starting point of 18 months.
- In respect of Category C images, there is a starting point of 6 months where aggravating factors are present.

We propose to select a combined starting point, representing the extent of your offending and bearing the totality in mind.

On looking at the binding case of Wicks, your criminal conduct falls squarely within one of the aggravating factors set out in that case, namely a large number of images, i.e. any number over three figures, and also, a significant period of time during which the images had been collected and stored, indicating the sophistication and high level of personal interest in such images. Noting this factor especially, the Royal Court has started with the combined figure of 3 years, stressing clearly that each case depends on its own individual facts. This being a serious example for the reasons given and because of these aggravating factors, the starting point here is enhanced to 5 years.

### **Mitigation**

We have taken on-board all that has been put forward on your behalf by your experienced and capable Advocate. In your favour are your previous good character, co-operation with the Police and early guilty pleas which were, on the facts, largely inevitable.

The Probation report is most helpful and illuminating and we emphasise that our task in sentencing is to protect the vulnerable victims of this type of child abuse and reflect the abhorrence felt towards this conduct in this jurisdiction. We have looked at everything said in the Probation report and in particular paragraph 5, which the Court will now read:

“My assessment does not differ from the explanation provided by Mr Perowne. He is sexually attracted to female children and sought the images for sexual gratification. My primary concern is the sheer volume of images and prolonged offending period. This depicts a high and entrenched deviant sexual interest. If that said is honesty during the interview bodes well for

engaging with treatment and subsequent conditions which may serve to reduce his likelihood of re-offending.”

Also, the Probation officer considers your sexual interest in children will provide concern about the potential in this regard. MAPPA (Multi-Agency Public Protection Arrangements) are called for by the relevant authorities. The Probation officer considers that an immediate period of custody is required to address your deviant sexual interests.

We start, as we have said, at 5 years, reflecting the aggravating factors. We discount, as the case of Wicks lays down, your personal mitigation and the guilty pleas. Previous good character in a person of your age is always significant and there must be some meaningful recognition of your guilty pleas, even in the present circumstances.

We pause to observe, as did the Court of Appeal, that the guidance provided does not amount to a straitjacket and sentencing is a matter for the Court’s judgement and discretion. But here, it has to be noted that you began your activities back in 2014. We make the discount 33%, one-third in total on the present facts.

### **Sentence**

Considering the nature of these offences we need to emphasise that this is child abuse. Without a market for these images, young victims all over the world would not be the subject of these activities. It is plainly not some sort of victimless crime. You indicated your apologies to the authorities, and well you might, as you bear responsibility for the use of such images. We share the views of the Probation officer on the facts of this case and consider that a custodial sentence is inevitable. We accept that your conduct can be assessed and addressed.

The sentences, as stated, are all concurrent to each other and in total:

- Counts 1 and 4 - 3 years and 4 months’ imprisonment from today.
- Counts 2 and 5 - 2 years’ imprisonment from today.
- Counts 3 and 6 - 12 months’ imprisonment from today.
- All concurrent, the total is **3 years and 4 months’ imprisonment from today.**

Would you now take a seat for a moment please.

### **Extended Sentence**

The Probation report recommends a period of 3 years as appropriate and proportionate in this case to continue intervention and aid in risk management post release. Additional conditions often apply with such cases are suggested. We stress that we are not some sort of rubber-stamp for recommendations and make our own decision on all the facts before us. In the circumstances we accept this recommendation.

In looking at this aspect of the case we note that whilst awaiting sentence you have been accessing lawful pornography. We share the Probation officer’s concern. It does not add to the period of imprisonment passed earlier, but confirms the need for an Extended Sentence, as this could be a trigger for re-offending. We stress that it is not unlawful and has not been taken into account when sentencing you earlier, but it does add to our concern.

The Extended Sentence will be for 3 years on each of the six Counts today. The Court considers that it is necessary to prevent re-offending and aid in your rehabilitation; so today’s sentencing comprises of two elements:

1. The 3 years and 4 months' imprisonment just imposed, plus;
2. an Extended Sentence of 3 years which you will be subject to on release if you reoffend with any offence punishable with imprisonment or fail to comply with the sentences' requirements. Then you can be returned to Prison so that that 3 year total, imposed by this Court, can be activated and that can be done either by this Court or by the Parole Review Committee.

There are additional requirements which are imposed and considering all the facts before us, we add those as well. They are set out in the Probation report and there will be a copy of the Extended Sentence given.

We add the following additional conditions:

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 own or use any Internet enabled device without the prior approval of your supervising officer.
3. To advise your supervising officer of any device you possess which is capable of taking photographs or videos and not to delete photos or images from these devices and to allow such items to be inspected and removed as required by the Police or your supervising officer.
4. Not to have contact with any female children under the age of 16 years without the prior approval of your supervising officer except where that contact is inadvertent and not reasonably avoidable in the course of lawful daily life.

These conditions are allowed in proportion and are necessary in this case.

A Sexual Offences Prevention Order, a so-called SOPO, is not indicated, as the Extended Sentence covers the same ground. You have been the subject of Notification requirements for pleading guilty. The Probation officer, sharing the concern of the Guernsey Police about your YouTube history, leads to extra concerns regarding sexual preoccupation that we, in all the circumstances, share. These requirements are supervised by the Island Police and provide a measure of protection to the public. We agree that 5 years from the date of your guilty plea, i.e. 20 July 2023 is appropriate on the facts of this case. You will have had a Notice but I will summarise it because you will, as I have said, will be aware of the conditions and a copy will be given to you.

1. You must notify the Police within 24 hours or within 24 hours of your release of your name, any other names, your address, your date of birth, your social security number, passport details, bank account details, employment details. If asked to do so, you must allow your fingerprints, photograph and/or a DNA sample to be taken.
2. You must notify the Police of any name change or change of home address at least 24 hours in advance or within 24 hours if you had no prior knowledge of the change occurring.
3. 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.
4. 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 those details.

5. You must notify the Police within 7 days in advance of any plans to travel abroad.

Those are the conditions which you must comply with or face further penalties. So, in summary:

- 3 years and 4 months' imprisonment from today;
- 3 years' Extended Sentence with the extra conditions on release;
- 5 years' Notification from 20<sup>th</sup> July of this year and;
- Forfeiture Orders as requested.

Those are the Orders of the Court Mr Perowne. Would you now please go down the stairs with the Officer.

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

**24<sup>th</sup> November 2023**