

Making indecent images of children 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]GRC079

**ROYAL COURT
FULL COURT**

15th December, 2023

**Before: John Russell Finch, Esq., O.B.E., Lieutenant Bailiff and Jurats:
Claire Helen Le Pelley, Jonathan Grenfell Hooley,
David John Robilliard, Marilyn Jasmine King, Felicity Jane Quevâtre, Simon Ernest Bodkin,
Jillian Clark and Richard Jeremy Wallen James.**

THE LAW OFFICERS OF THE CROWN

- v -

RICHARD MARK DE LA MARE

**Advocate S Watson appeared for the Crown
Advocate P Lockwood appeared for the Defendant
Appropriate Adult Caroline Morgan assisted the Defendant**

LIEUTENANT BAILIFF:

Background

You appear here today for sentence on an Indictment containing three counts, each concerning the making of indecent images of children. Such images are now classified into three categories:

- Category A: involving penetrative sexual activity with children, sexual activity between children and animals, and sadism;
- Category B: child images involving non-penetrative sexual activity with adults; and
- Category C: all other indecent images of children.

(Category A represents the previous categories now replaced, SAP 4 and 5; Category B was SAP 2 and 3; Category C, SAP 1.)

The maximum penalty is 10 years' imprisonment on each.

The counts indicate that between the dates given, on a custom-built personal computer, you made the following indecent images of children:

- Count 1: 27 images of Category A (20 still, 7 videos);
- Count 2: 44 images of Category B (40 still, 4 videos);
- Count 3: 436 images of Category C (434 still, 2 videos).

You are now 52 years of age with old driving convictions dating from when you were a teenager. We treat you effectively as of good character.

You have indicated and entered early guilty pleas, and have been in custody since 30th June 2023 for your own protection.

The offences came to light after the execution of a Search Warrant. Examination of your desktop revealed a large number of indecent images of children. A page of a notebook was also seized containing references to matters relevant to indecent images of children (page 13 of the Prosecution bundle).

You were found to have downloaded the images via torrenting software, view them after download and later securely delete them. Three different pieces of secure web deletion were found to delete items with no hope of recovery. The total of the images found are in the charges and there were also 2,418 borderline images. A USB storage device did not contain indecent images but contained items which suggested that it had been used to store indecent images at some time.

In interview you confirmed you had built your desktop computer yourself and provided the password.

We have heard the details of the interviews, and summarize them by saying that you did your best to minimize your blame in very damning circumstances.

Sentencing Considerations

We look to the binding Court of Appeal case of Wicks, where the previous SAP classification applied.

A significant aggravating factor is the large number of images found. Large being any number over three figures. We note this specifically here, applies to the Category C matters. We arrive at a starting-point reflecting your overall criminality and then apply an appropriate discount on mitigating factors. That is, we will knock-off bits because of things in your favour.

We will sentence concurrently to represent the totality of all of your offending.

We start with a combined total of 3 years and 6 months' imprisonment, noting the large number of indecent images and the number of Category A and B images and an element of sophistication and planning in your offending.

Mitigation

The useful Probation report notes that you are assessed as sexually attracted to female children, but that you showed honesty in your Probation interviews. Your presentation was indicative of neuro diversity and there were "evident defects" in your processing skills. There is a medium likelihood of re-offending sexually. As the report correctly puts it – "such offences are likely to cause long-term serious harm to the victims". Further assessments post-sentence are necessary.

As we said, you pleaded guilty early and have essentially a previous good character. These are matters that are in your favour and must be given effect to. Our total discount is over one-third but less than one-half, reflecting this.

Sentence

The report puts it well, you have "engaged in behaviours which have been planned and repetitive, without any concern at the time for the impact on the vulnerable victims". The less of a market place for that, the less the number of children molested. These are serious offences.

The sentence on each count is 2 years' imprisonment with effect from the 30th July 2023, concurrent: total 2 years.

Extended Sentence

Now I am coming to the Extended Sentence.

We agree on everything we have heard, with the Probation officer's recommendation, based on the need for ongoing intervention to reduce your likelihood of re-offending, and enable ongoing monitoring. We stress in such matters that this is something which the sentencing court must decide in all the facts before it, and not act simply as a rubber stamp. Here we consider this period necessary, principally to avoid re-offending. Each case depends on its own facts.

The purposes of an Extended Sentence is to secure your rehabilitation and, as stated, prevent further offending. The period of immediate custody is not sufficient to achieve these aims. Hence, we add, on each count concurrently, a period of 3 years during which you will be subject to further supervision. There are standard conditions on this and the Probation officer has correctly requested additional conditions.

The main thing you have to do is to comply with your supervision and not reoffend, otherwise you could be returned to Prison by the Parole Review Board or the Court. There are additional conditions which are sought which, in our opinion, are prudent and necessary 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 and to allow such items to be inspected and removed as required by the Police or your supervising officer.

So this adds a 3-year enhanced supervision when you are released where you will be subject to all the conditions including these added ones. You will get a Notice on this in writing and your Advocate will be able to assist on any questions you may have and I repeat, if you fail to comply with all the conditions you will be returned to the Prison.

Notification

You have, by operation of Law been subject to a Sexual Offences notification Order since you pleaded guilty on 31st August 2023.

In order to protect the public, we agree with the Probation officer's recommendation of the minimum period of 5 years from that date. This is proportionate and necessary on the facts before us, and, we stress, provides an element of protection for the public. I will read the conditions in summary form, but again, you will have a written Notice with everything spelt out that you can speak to your Advocate about if there is anything you do not understand. I am summarizing:

1. You must notify the Police within 24 hours or within 24 hours of release from Prison 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.
2. If asked to do so for verification purposes, you must allow your fingerprints, photograph and/or a DNA sample to be taken.

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 the change occurring.
4. 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.
5. You must notify the Police of your details every 12 months on the anniversary of your initial Notification, even if there is no change to these details.
6. You must notify the Police at least 7-days in advance of any plans to travel abroad.

All these apply from the date you pleaded guilty and I repeat, you will have a written Notice so there can be no mistake about what applies to you and if you don't comply with those requirements, that is an offence and you will be brought back before the Court and punished for it.

I indicated that you pleaded guilty on 31st August 2023 and I also indicated that your sentence starts from 30th June when you first came before the Court.

We also order the Forfeiture of the desktop, PC and USB stick, as requested by the Prosecution, there being no objection to them.

If there is anything that is not clear please ask your Appropriate Adult and your Advocate can certainly go through the forms with you and the sentences to which you are now subject.

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

15th December 2023