

[2024]GRC089

**ROYAL COURT
FULL COURT**

20th December 2024

**Before: John Russell Finch, Esq., O.B.E., Lieutenant Bailiff
and Jurats: Stephen Murray Jones OBE, Stuart Michael Crisp,
Tina Jane Le Poidevin, Felicity Jane Quevâtre, Simon Ernest Bodkin,
James Robert Toynton, Jillian Clark, Richard Jeremy Wallen James
and Kay Parnwell**

THE LAW OFFICERS OF THE CROWN

- v -

DANIEL GRAHAM JORDAN

**Advocate L C Roffey appeared for the Crown
Advocate M P Priaux appeared for the Defendant**

LIEUTENANT BAILIFF:

Background

You appear here today for sentence on an Indictment containing three Counts.

- Count 1:** making 12 indecent images of children, Category A;
- Count 2:** making 5 indecent images of children, Category B; and
- Count 3:** making 8 indecent images of children, Category C.

The maximum penalty on each is 10 years' imprisonment.

Such indecent images are categorised according to their seriousness. Category A images are the most serious. They are child images involving penetrative sexual activity with children, sadism or sexual activity with a child and an animal. Category B are the next most serious involving non-penetrative sexual activity with a child and Category C comprises all other indecent images of children not falling into categories A or B.

The word 'making' in the legislation means here downloading an image from the internet which involves creating a duplicate electronic version. Following an intelligence report, a search warrant was executed at your house on 9th February this year. You subsequently admitted making the images, it appears from the internet sources. Some were already present on the Police database, others were not.

You were interviewed, initially declining to answer questions. Then you explained that you had used X to access your regular pornography. Clicks on the comments would take to indecent images of

children. You accessed them out of what you described as “morbid curiosity”, but denied getting sexual gratification from them. You developed your story when being seen by the Probation officer, having initially denied the intentional viewing of the images, but later accepted you knew where the links would go if you followed them. You were at a loss to explain why then you continued to access the sites and view the indecent images.

You are a 26 year old local man. In 2017 you were convicted for assault on your then partner, whilst under the influence of alcohol and completed an 18 month Probation Order. You have two cautions, in 2016 for being drunk in a public place and a 2020 disorderly behaviour in a public place. Here you entered timely guilty pleas on 18th July 2024 and have been on unconditional bail since 20th May 2024

Sentencing Considerations

We are bound by the guideline case of the Court of Appeal in Wicks and others (2012). The case was under the old classification of images into 5 levels. Levels 4 and 5 there being equivalent to Category A images. Levels 2 and 3 equivalent to Category B, Level 1 being equivalent to Category C.

We need to consider the individual circumstances of the case and select here a combined starting-point and then go on to apply relevant and applicable mitigation. Each case depends on its own facts.

The starting-point for Category A images is in the region of 3 years. Category B, 18 months and Category C, in cases such as the present around 6 months. An Extended Sentence may also be called for.

When considering the possible aggravating factors listed by the Guernsey Court of Appeal, there is no evidence here of wide scale distribution, or breach of trust of a particular child or financial gain but we do have 12 Category A images. The number is not considered “large” under the guidelines of the Court of Appeal and there are no previous similar convictions. Noting the Category B and C images, we considered that a combined starting-point of 3 years 6 months is appropriate, and we note that your pleas are wholly unequivocal.

Mitigation

Your guilty pleas are noted but the evidence was strong. Nevertheless, we are bound to apply some credit for them and do so. As stated, you have no similar convictions. We note the defence Psychiatric Report and the helpful observations in the very thorough and detailed Probation Report. You present as being in a statistical proportion of the population presenting a medium risk of re-offending. A special assessment relating to image based offences gave you a score that was in around 15% of others; and 16% of others tested had a higher score and 69% a lower score. You are generally assessed as posing a serious risk of harm to others in relation to the harm inflicted on the child victims and the use of such content, furthering the demand for it. Further assessment of you is necessary. We note that you are apparently now abstaining from alcohol, which is to your credit. The Probation Officer notes the concerns raised in the Psychiatric Report about coping with a custodial sentence. There is support available in Guernsey and the States Prison is not unable to meet your needs, especially psychological assessment and treatment.

Taking account of what has been put forward on your behalf by your very experienced Advocate, the Probation and Psychiatric Reports and your previous lack of similar offending, we afford you a discount of 50% attempting to factor in the mitigation we have found relevant, including the pleas. We stress, for the avoidance of any doubt, that we sentence, as we are bound to, on the basis of the offences admitted before us.

Sentence

This is manifestly not a victimless crime. Because of the demand for such images, numerous children all over the world have their young lives ruined and devastated by having to participate in these distressing images. The less the demand, the less misery would be visited on the young and vulnerable. Nor, it has to be stressed, the courts generally sentence in the interests of defendants. There is considerable legitimate public interest in seeking to deter others from this course of conduct. On all the facts of these offences, community based disposal is not appropriate.

We therefore sentence as follows:

In respect of **Count 1**: 21 months' imprisonment.

Count 2: 10 months' imprisonment, concurrent.

Count 3: 6 months' imprisonment, concurrent.

Total: 21 month's imprisonment from today.

Forfeiture and Destruction of the iPhone used in the commission of the offences.

Extended Sentence

The Court considers that the usual period of supervision after sentence would not be adequate for the purpose of preventing further offences and securing your rehabilitation. Consequently, the Court is imposing an extended period of imprisonment. This has two elements; the custodial term just imposed of 21 months, followed by an extension period after your release during which you will be subject to an Extended Sentence Licence.

The Probation officer has recommended a 2 year period of extension. It is the Court's function to consider such a recommendation, but make the decision itself, not acting as a rubber-stamp, but making its own fair assessment. We have done so today on all the material before us.

On the facts of this case we agree the 2 year period is merited. If upon release, 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 your licence, in which case the period of the Extended Sentence Licence could be served. Now I am going to deal with the standard conditions imposed in every Extended Sentence Order and I am also going to deal with the requirements put forward by the Probation officer which this Court considers to be proportionate and correct on the facts of this case.

First of all the standard requirements:

- to comply with any requirements specified by your Supervising officer for the purpose of ensuring that you address your sexual offending behaviour problems.

And now the requirements imposed in the circumstances of your case:

- not to have any contact directly or indirectly by any means with female children 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;
- you must notify your Supervising officer of any developing personal relationships, whether intimate or not, this includes persons known to you prior to your conviction with whom you are renewing or developing a personal relationship;
- 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 online message board, forum or community without the prior approval of your Supervising officer;
- 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;

- not to use applications or software which automatically deletes or has auto-wiping functions;
- 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 or such storage you notify the Police Public Protection Unit and/or Probation Service of that activity and provide ongoing access to it.

Those are the conditions and I repeat if you breach them you are liable to be returned to prison for up to 2 years.

Notification Requirement

The other matter which was put forward was for a recommendation for a Notification requirement.

The law requires this to be imposed from when you entered your guilty pleas and I did, when you put your guilty pleas in on 18th July in the Plea and Directions Hearing. This is a valuable tool in the prevention of crime and monitoring offender behaviour activity. Again, it is stressed this is the Royal Court's decision based on our assessment of the case. Here, once more, we concur in the Probation Officer's recommendation considering all we have read and heard.

In respect of both, I have read out of the Extended Sentence and what I am about to read out on the Notification Requirements you will get the written Notices so there will be doubt as to what you required to do, but I will read them out so they are on the record of the Court as being dealt with publicly.

- You are now required by law to notify the Police within 24 hours or within 24 hours of release if you are in prison or otherwise detained of your name or any other names 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 notice 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, and;
- you must notify the Police at least 7 days in advance of any plans to travel abroad.

These requirements apply to you from the date of conviction that I stated – 18th July 2024 and if you fail to comply with these requirements without a reasonable excuse, or provide false or misleading information you are liable to further imprisonment.

That is the Order of the Court.

- 21 months' imprisonment from today
- 2 year Extended Sentence Licence
- 5 year Notification Period from the date of your conviction

You will receive written Notifications of your requirements and a Confiscation Order.

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

20th December 2024