

Sentencing remarks regarding three counts of making indecent images of children contrary to section 105(1)(a) of the Sexual Offences (Bailiwick of Guernsey) Law, 2020. The final four counts relate to sending indecent messages using a telecommunications network contrary to section 16(1)(a) of the Telecommunications (Bailiwick of Guernsey) Law, 2001.

[2025]GRC021

**ROYAL COURT
FULL COURT**

14th March 2025

**Before: Sir Richard James McMahon, Bailiff and Jurats
Claire Helen Le Pelley, Jonathan Grenfell Hooley, Paul Martin Burnard, Felicity Jane
Quevâtre, Richard Jeremy Wallen James, Sally-Ann David and David John Robilliard MBE**

THE LAW OFFICERS OF THE CROWN

- v -

LIAM THOMAS MCILROY

**Crown Advocate C A Dunford appeared for the Crown
Advocate A Davies appeared for the Defendant**

BAILIFF:

Background

Liam McIlroy, you have pleaded guilty to an indictment containing seven Counts. The first three of those Counts relate to making indecent images of children contrary to section 105(1)(a) of the Sexual Offences (Bailiwick of Guernsey) Law, 2020. By way of explanation, this reference to “*making*” is used here in a technical sense, relating to downloading the images and them being stored on your devices, and does not refer to taking or producing them. Each of the offences in these Counts is punishable by a maximum sentence of 10 years’ imprisonment. The final four Counts relate to sending indecent messages using a telecommunications network contrary to section 16(1)(a) of the Telecommunications (Bailiwick of Guernsey) Law, 2001, for which the maximum sentence for each is two years’ imprisonment.

You are a single man, now aged 46, although these offences were committed when you were 44. As the Court has heard, the offences came to light following the execution of a search warrant at your home on 7 October 2024. You were charged on 16 October 2024, appearing before the Magistrate’s Court the following day. On your first appearance before this Court on 23 January 2025, you pleaded guilty to the seven Counts. You have been remanded in custody throughout. As a result, you are in the process of selling your house. You have previously worked as a plumber.

When the search warrant was executed, several electronic devices were seized and subsequently examined. Reference has been made to your use of Kik Messenger and the chat application Discord, a sample of the messages forming the Telecommunications Law offences. The first three Counts relate respectively to 4 Category A images, 6 of Category B and 6 of Category C. Such images are grouped into these three categories by reference to the Child Abuse Images Database (“CAID”). The most serious type is Category A, which includes penetrative sexual activity, sadism or sexual activity between children and animals. Category B covers non-penetrative sexual activity and Category C covers all

other indecent images not in the first two categories. These are the numbers of images on which we sentence.

Sentencing Considerations

In 2012, the Court of Appeal provided guidelines in relation to sentencing in indecent images cases in *Wicks, Sharp and Towers*, to which this Court continues to have regard. At that time, reference was made to five levels of seriousness. Levels 4 and 5 were the most serious and are now reflected by reference to Category A from CAID. Levels 2 and 3 have become Category B and level 1 corresponds to Category C. We approach matters on this revised basis, noting what was said in para. 23:

“In practical terms, the offences under s. 3 [and now s. 105] are apt to include all acts associated with the creation of an indecent image and embrace the activities of all those involved in the process, from the photographer who takes the original image to the person who later downloads it to his computer for his own perverted pleasure.”

When referring to the premises on which the “*initial figure*” has been based, we have taken into account the bases set out in para. 41 for doing so.

Paragraph 37 in *Wicks* sets out differing “*initial figures*” relating to each category of image. For Category A, an initial figure in the region of 3 years’ imprisonment is indicated. The first Count is such an offence. For Category B, and so relating to Count 2, an initial figure in the region of 18 months’ imprisonment is indicated. For Category C, and so relating to Count 3, where the guideline suggests “*a fine or community sentence preferably with a condition of treatment. If any relevant aggravating factor is present, the court may feel that the custody threshold is passed and may consider a sentence of up to 6 months’ imprisonment.*” However, this becomes of less relevance where there are images in the more serious categories and we are satisfied that the custody threshold is clearly passed here in relation to all your offending. The Court does not aggregate all these starting points, but rather has regard to the totality of your offending in determining appropriate sentences to impose.

There is no equivalent guideline in respect of the Telecommunications Law offending. The Court has noted the content of some of those messages in respect of each Count. In our view, they reflect an unhealthy attitude towards young girls, and we regard them as aggravating the first three Counts.

Paragraph 38 in *Wicks* sets out a number of aggravating factors, none of which applies in your case. However, that case also refers to deterrence. At para. 47, the Court of Appeal stated that:

“We enquired during the hearing of these appeals whether there was evidence to show that this offence is on the increase here. We were told that the essentially private way in which the offence is frequently committed makes it difficult to know how prevalent the offence is and whether its occurrence is escalating.”

This Court sadly still sees too many people like you appearing before it. It appears to us that those who make indecent images of children are not aware of how abhorrent right-thinking people view this activity. We are, therefore, satisfied that it remains appropriate that there is an element of deterrence in the sentences to be imposed in the hope that the message gets home. Before leaving *Wicks*, we have further noted the comment in para. 55 that the Court of Appeal did “*not consider it appropriate to treat holding for “personal use”*” as a mitigating factor.

Therefore, having regard to the totality principle, we have started with the most serious of these offences, Count 1, and bearing in mind the other offending to which you have pleaded guilty, which we consider aggravates the offending, we are satisfied that it is appropriate to take as our starting point for Count 1 3½ years’ imprisonment, before considering mitigation. Similarly, for Count 2, we adopt a starting point of 21 months’ imprisonment and for Count 3 we use a starting point of 9 months’

imprisonment. In respect of each of the Telecommunications Law Counts (4 to 7), we are satisfied that the custody threshold has been passed and so take a starting point for each at 6 months' imprisonment.

Mitigation

We have had regard to everything that has been said about you and on your behalf by Advocate Davies and have also taken into account what is written about you in the Probation Report. In doing so, we note the assessment that there is a medium likelihood of general re-offending, and also that the assessment is that you do pose a risk of serious harm to others. Concern has been expressed about your apparent sexual deviance.

The Court appreciates that you entered your guilty pleas at the first opportunity. That goes to your credit and you will be afforded a meaningful discount of approximately one-third, however inevitable those pleas were.

You have no previous convictions, which is another factor we take into account. Having been caught, you have now expressed regret about your actions.

You have attributed loneliness as well as excessive consumption of alcohol as being the reasons for not remembering what you have done when searching the internet. We can take little account of these matters because it is important that everyone, including you, takes responsibility for their actions, however difficult their circumstances may be. Drinking yourself to oblivion may be a form of escape but, if you do not have control of what you do in that state, you have only yourself to blame.

Sentence

Liam McIlroy, let me be abundantly clear that this Court regards these types of offences as truly abhorrent and revolting, and for which there is, and can be, no excuse. Whilst the number of images is not high, we have noted that each was a video, although the length of them is unknown, but collectively we regard videos as more culpable than still images, and those who watch such videos really ought to reflect on the fact that, for every image that is circulated through whatever form of sharing, a young person has been subjected to unnecessary degradation and abuse. As explained earlier, we remain satisfied that there should be an element of deterrence in the sentences given by this Court.

We have adopted a totality approach, on the basis that all these offences, including the Telecommunications Law Counts, are part and parcel of an overall pattern. Consequently, the custodial sentences that we are satisfied should be imposed will all be made to run concurrently. We reject the possibility of these sentences being suspended, as urged upon us by Advocate Davies.

In respect of Count 1, for making Category A indecent images, the sentence imposed is 2 years' imprisonment.

In respect of Count 2 (making Category B images), the sentence will be 12 months' imprisonment.

In respect of Count 3 (making Category C images), the sentence will be 5 months' imprisonment.

In respect of each of Counts 4 to 7, we impose sentences of 3 months' imprisonment.

Because all of these sentences are to run concurrently, in total the sentence will be 2 years' imprisonment, which is effectively the length of the sentence for Count 1.

We note that you have been in custody since your appearance before the Magistrate's Court on 17 October 2024, so these sentences will run from that date.

In accordance with section 1 of the Criminal Justice (Supervision of Offenders) (Bailiwick of Guernsey) Law, 2004, upon release or completion of any parole period (if applicable), you will be subject to supervision by the Probation Service for a period equal to one quarter of the total sentence or the period you would have served had you not received remission, whichever is less. If you fail to comply with the conditions of the supervision, you will be liable to further imprisonment, a fine or both.

The Crown's application pursuant to section 3 of the Police Property and Forfeiture (Bailiwick of Guernsey) Law, 2006 in respect of the Apple iPhone is also granted. The Court notes that this was not resisted. The Court is satisfied that this item was lawfully seized and that the analysis of it shows it was used for the purpose of committing or facilitating the commission of an offence. The Court has, as required by subsection (5), had regard to the value of the property and the likely financial and other effects on you of making the order before deciding to grant the Crown's application.

On behalf of HM Procureur, application has been made for an order under section 18 of the Criminal Justice (Sex Offenders and Miscellaneous Provisions) (Bailiwick of Guernsey) Law, 2013. This has not been resisted, save for the final condition.

The Court must be satisfied, on the balance of probabilities, that you pose a threat of sexual harm to children in general, enabling it to make a sexual offences prevention order (or SOPO) as is necessary to protect children in general. The order may prohibit you from doing anything set out therein or require you to do whatever is described. The period of a SOPO must be for at least 5 years. The basis of the application is the assessment found in the Probation Report.

Given the offending to which you pleaded guilty in January, the Court is satisfied that you pose a threat of sexual harm to children in general. We accept what has been set out in the probation report and as outlined to the Court this morning. To the extent that the Crown has invited this Court to consider that the four Counts under the Telecommunications Law should be certified as sexually aggravated for the purposes of section 17(1)(b)(iii) of the 2013 Law, when read with section 2(3) and (4), because you have pleaded to Counts 1 to 3, each of which is a relevant offence, thereby making you subject to the notifications requirements under that Law, to which we will turn later, there is little utility in so certifying. However, the Court is satisfied that such a certificate is appropriate given the content of those messages, meaning that the SOPO is made in respect of all seven Counts.

As a result, we are satisfied that it is appropriate to make a SOPO in respect of you to protect children in general. We agree with application made, as well as the recommendation, that this order should run for 5 years from today.

We are further satisfied that it is appropriate to attach all of the conditions recommended, setting out what you cannot do and what you are required to do. This includes the fifth condition, which we are satisfied is appropriate in your case. Those conditions, which will be provided to you in written form, state that you are:

- “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 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.
4. To allow the installation of monitoring software on any internet-enabled device or computer if deemed necessary by your supervising officer.
5. Not to have any contact directly or indirectly by any means with any female child under the age of 16 years without prior permission of your supervising officer, other than such contact which is inadvertent and not reasonably avoidable in the course of lawful daily life.”

As a consequence of making this order against you, there has been no need for the Court to consider whether to add any extended sentence licence. The Court is satisfied that this order is proportionate and appropriate in your case.

Finally, having been convicted of relevant offences, you became subject to the notification requirements under Part II of the 2013 Law from the date you entered your pleas on 23 January 2025.

We are minded to follow the recommendation of the probation officer that the notification period should be 5 years. This period is a precaution against any risk you may pose and can be further extended. You will already have been given a written notice setting out all the requirements of being a notifier, and will receive another one, but in summary the requirements are:

- You will already have provided the Police with your personal details, as explained when you entered your pleas.
- Within 24 hours of your release from prison, (if these have not already been updated previously), you must notify the Police of your new personal details, and may be required to provide any samples required.
- Thereafter, you must notify the Police of any change of name or address, at least 24 hours in advance of the change occurring, or within 24 hours if you had no prior knowledge of that change.
- You must also 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.

In summary, therefore, Mr McIlroy, you are sentenced to a total of 2 years' imprisonment, but backdated to run from 17 October 2024, the forfeiture of the Apple iPhone is granted, we are making you subject to a SOPO for 5 years from today, and you will also be subject to a notification period of 5 years, but running from 23 January 2025.

Sir Richard J McMahon
Bailiff

14th March 2025