

JERSEY / JUDGMENT

AG -v- Barnett [2016] JRC 011 (19 January 2016)

[2016] JRC 011

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JUDGMENT

THE commissioner: 1. You were convicted of two counts of possession of indecent photographs of children and three counts of making, by means of downloading, such indecent photographs. The total number of images involved in your case was 197 still images and 3 movies of which a total of 12 of the images were at levels 4 and 5 on what is known as the Copine scale; levels 4 and 5 are the more serious ones which involve penetrative sexual activity or worse. Of the images at levels 4 and 5, 7 were related to the possession offence and 5 to the making offences. It is fair to say that the vast majority of the images, namely 176, were at level 1. 2. Now the Crown Advocate says that because of the existence of some images at levels 4 and 5 then the matter falls within category 4 as set out in the leading case of AG-v-Godson and Crowley

[2013] JRC 091 so that an initial figure of 3 years is appropriate in principle. You pleaded not guilty so that means that the mitigation for a guilty plea of up to one third off the sentence is not available to you. 3. But there is mitigation. Your advocate has referred to your age (70), to the fact that you are essentially of good character, and we do treat you as a person of hitherto good character, because the offences concerned were very minor, of a totally different nature and a long, long time ago. We have also had regard to the references which have been supplied to us. 4. So taking all these matters into account and having regard to the fact that the vast majority of the images were at level 1, we think we can make a reduction in the conclusions. If the images had consisted solely of level 1 then a non-custodial sentence would have been appropriate. But images at levels 4 and 5 mean that real children have been put through the degradation and the distress which result from the making of these images; so where there are images of levels 4 and 5 we consider that a non-custodial sentence is not appropriate. 5. So in all the circumstances our sentence is as follows:-on Count 1; 18 months' imprisonment, because we think that, possession offences having a lesser maximum, they should attract a lesser sentence, Count 2; 2 years' imprisonment, concurrent, Count 3; 2 years' imprisonment, concurrent, Count 4; 2 years' imprisonment, concurrent, Count 5; 6 months' imprisonment, concurrent, making a total of 2 years' imprisonment in all rather than the 3 years moved for by the Crown. 6. We agree that a period of 5 years from today would be appropriate before you can apply to come off the notification requirements and we make the

restraining orders in the form asked for by the Crown for a period of 5 years from today. 7. As to costs, we are going to adjourn that. It will be necessary to explore your financial position if that matter is to be addressed. 8. We order the forfeiture and destruction of the photographs and the computer equipment but the destruction is not to take place until the outcome of your appeal against conviction. Authorities Sex Offenders (Jersey) Law 2010. AG-v-Godson and Crowley

[2013] JRC 091 . AG-v-McLoughlin

[2015] JRC 225 . Page Last Updated: 29 Mar 2016 BAILII: Copyright Policy | Disclaimers | Privacy Policy | Feedback | Donate to BAILII

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