

JERSEY / JUDGMENT

AG -v- Brown [2015] JRC 062 (27 March 2015)

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JUDGMENT

THE commissioner: 1. You have pleaded guilty to downloading some 33 images and a movie of which 6 of the images and the movie were at levels 4 and 5 on the Copine scale which are the more serious ones. This means that you are within the fourth category in the leading case of AG-v-Godson and Crowley

[2013] (2) JLR 1 and the starting point for the Court's consideration is a sentence of 3 years' imprisonment. 2. The Court wants to repeat what it said in the case of AG-v- Videgrain

[2014] JRC 040 because it is very important that it is understood what these offences involve. What the Court said was this:- "1 The Court has said repeatedly that the downloading of indecent images of children is not a victimless crime, particularly where the images are at levels 4 or 5 of the Copine scale. Real children have been subjected to the depraved sexual practices which are shown in the films or the pictures, with all the suffering and damaging consequences which flow from that and those who download this material provide a market for the evil people who make these films and therefore they indirectly contribute to the suffering of these children. That is why the Court has repeatedly said that, save in exceptional circumstances, a prison sentence will be imposed in such cases." 3. Advocate Gollop has argued very persuasively that this is one of those exceptional cases. He has referred to many matters of mitigation; he has referred to your guilty plea and your cooperation; to your hitherto very good character; you have no previous convictions and it has been much more than that, you have a positive good character. We have read the references, we have read the letters from you and your family, and, of course, we have noted the good work you have done with the Duke of Edinburgh Scheme, the Prince's Trust, St John's Ambulance and others. We have read the background reports and the psychological report with their recommendation that there be a non-custodial sentence, and we have also noted that you have voluntarily sought treatment from Mr Hollywood. We also noted Advocate Gollop's point that you have never sought to minimise what you have done, unlike many; you have accepted you have an interest in these images and it does appear that you are determined to try and do something about it. There has also been unacceptable delay at times in this case. 4. Putting all those matters together, one jurat has

been persuaded that this case is exceptional and therefore that a non-custodial sentence is appropriate. The other jurat feels that whilst there is indeed powerful mitigation, this is to found in other cases as well and it is not sufficient to justify making an exception to the Court's clear policy which I have just described and the reason for that policy which I have just described. I am siding with the latter jurat. I feel that the Court's policy requires that, for offences of this nature, save in exceptional circumstances, a prison sentence is required and I cannot find exceptional circumstances in this case. 5. We do, on the other hand, think that the sentence was too long given the fact that this was towards the lower end of offending where levels 4 and 5 are involved. So the sentence of the Court is one of 12 months' imprisonment on Counts 1 and 2 and 2 months' imprisonment on Count 3, all of those to be concurrent. 6. We order that you are subject to the notification requirements and it will be 5 years from today before you can apply to come off them. We make the restraining orders asked for by the Crown, which were not opposed by your counsel, for a period of 5 years. 7. We also order the forfeiture and destruction of the computers. Authorities AG-v-Godson and Crowley

[2013] (2) JLR 1. AG-v- Videgrain

[2014] JRC 040 . AG v B

[2015] JRC 022 . AG v Horman

[2008] JRC 187 . Page Last Updated: 18 Jan 2017 BAILII: Copyright Policy | Disclaimers | Privacy Policy | Feedback | Donate to BAILII

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