

JERSEY / JUDGMENT

AG v Bulpin [2020] JRC 141B (21 July 2020)

[2020] JRC 141B

Source: bailii.org · Research copy typeset by Esheria. Not court-issued or certified.

[Home] [Databases] [World Law] [Multidatabase Search] [Help] [Feedback] [DONATE]
Jersey Unreported Judgments You are here: BAILII >> Databases >> Jersey Unreported Judgments
>> AG v Bulpin [2020] JRC 141B (21 July 2020) URL: https://www.bailii.org/je/cases/UR/2020/2020_141B.html Cite as:

[2020] JRC 141B [New search] [Help] Bad Character Application [2020]JRC141B Royal Court (Samedi) 21 July 2020 Before : R. J. MacRae, Esq., Deputy Bailiff, sitting alone The Attorney General -v- Leslie Thomas Bulpin R. C. P. Pedley Esq., Crown Advocate. Advocate A. M. Harrison for the Defendant. EXTEMPORE JUDGMENT THE DEPUTY BAILIFF: 1. The defendant is to be tried today by the Inferior Number for an offence of making indecent photographs of children contrary to Article 2(1)(a) of the Protection of Children (Jersey) Law 1994 . 2. The prosecution case, in short, is that on 19 th May last year, Police attended the defendant's home and seized his Apple iPhone which was forensically examined and upon it were identified 22 unique images that the Crown allege to be indecent images of children. All the images were recovered from web caches associated with the safari web browser and images from web sites were automatically placed into web caches stored on the phone when the user, the defendant, visited the web sites in question. When I use the word downloaded, in the course of this brief judgment, I am referring to images stored in that way. 3. All the images were cached between the 1 st May and 19 th May last year. And the evidence is that when visiting a certain website the defendant made a number of searches between the th and 15 th May last year including search terms that he entered "little girls", "teens masturbating" and "dirty little slags", and there are images in particular recovered from the phone associated with the search under the term "little girls" made on 5 th May at about 2am in the morning. 4. The Crown today seek to adduce evidence in relation to another offence committed just a few days later on 20 th May, 2019 when the defendant made several telephone calls to a mobile telephone number associated with a 15 year old girl. He had met the girl as she was a friend of his ex-partner's child, and during the course of the conversation, which was recorded, he invited the 15 year old to come to his home for sexual contact and it was clear that he knew she was under 16, and one of the things he said on the chat was " you're not 12, you're 15 though plenty old enough". The defendant pleaded guilty to that matter on 10 th July, 2020, which is why this application is made late. I have been asked to abridge time, and there is no objection to me so doing as the defence accept they are not prejudiced by this late application as, of

course, they have been fully aware of this matter and the defendant's advocate represented the defendant and still does in relation to this other offence. 5. That was the offence to which he pleaded guilty on 10 th July, 2020, of sexual grooming of a child contrary to the Sexual Offences (Jersey) Law 2018 . Today, the Crown seek to adduce the evidence of that matter in this trial, and they do so on two bases. Firstly, pursuant to Article 82E of the Police Procedure and Criminal Evidence (Jersey) Law 2003 they say that it is important explanatory evidence and they need to show, pursuant to Article 82E(5), that "without it, the court or jury would find it impossible or difficult properly to understand other evidence in the case." And the Crown say that they satisfy that criteria. They say that for four

reasons:

- (i) Although not under the current statutory regime, they refer to the similar case of AG v Sousa

[2019] JRC 236 whereon similar facts the Court held that it would be an affront to common sense to exclude such evidence from the Jurats on the footing that it was necessary background evidence. (ii) The Crown rely on the timing of the search terms referred to which only predate by a few days the commission of the grooming offence. (iii) They say that the evidence is relevant to credibility noting the defendant's assertion at page 4 of his interview that he was not interested in children and the context he was speaking of was in the context of indecent images of children. He went on to aver the youngest person he would be sexually interested in would be "maybe in their 20s" . (iv) The Crown say they need to prove that the defendant had an interest in underage girls and that the comment being 15 was "plenty old enough" in the context of the grooming offence is directly relevant to the charge. 6. The defence say the Crown cannot satisfy the test under Art 82E because it is possible for the evidence to be understood, the evidence in relation to the count on the Indictment the defendant faces today, in the absence of this additional material. They say that the Jurats will have no difficulty in properly understanding the evidence without knowing about the defendant's conviction for grooming. 7. This is an application made on the day of the trial and with greater time and with greater access to authority I might have come to a different conclusion in relation to Article 82E. It is important that I am fair to this defendant, and certainly in relation to the application under the Article 82E, it seems to me, on the material that is in front of me, that a court or jury could understand the evidence in this case without the further material and accordingly I decline the prosecution's application to admit the evidence under Article 82E. 8. However, the position under Article 82F is different. The Crown also seek to adduce the evidence of the grooming conviction under Article 82F on the footing that it is relevant to a matter in issue between the defendant and the prosecution as it shows that he is more likely to be guilty of the offence with which he is charged. The Crown put their case in two ways: (i) They say that it is evidence relevant to the issue of propensity and that it makes it more likely that the defendant is guilty of the offence. They point to the timing of the offence, only a few days after the alleged commission of the offence which the Jurats are

determining, and they point directly to the comments in interview which I have referred. The defence have not sought to edit out those comments and accordingly the Jurats will be told, at least in interview and perhaps on oath that the defendant is not sexually interested in children and the youngest person that he is sexually interested in is a person in their 20s. It is plain that the evidence of the grooming conviction is directly relevant to that matter. (ii) In terms of the way in which I need to direct the Jurats in due course, they need to be satisfied of three matters for the purpose of their consideration of this case: (a) That photographs were "made"; (b) That the defendant made the photographs intentionally in the sense that he deliberately downloaded or saved the photographs into his phone; and (c) The mens rea of the offence that the time that he downloaded those photographs, namely that he knew, or thought it likely, that they would be indecent images of a child under the age of 16. It is that third issue which is to be the key issue in this case. It seems to me that it is arguably directly relevant to that issue that the defendant five days later committed this grooming offence involving the grooming of a 15 year old child. 9. The defence will rely on the fact that there were over 2000 images found on the defendant's phone, the vast majority of which involved adult pornography and that the downloading of these images were inadvertent in the extent that he was not looking for images of children, and let alone indecent images of children, and the Jurats may take the view that the evidence of the grooming offence is relevant to that issue and relevant in the way I have described. 10. Accordingly I admit the evidence on that basis. Authorities Protection of Children (Jersey) Law 1994. Sexual Offences (Jersey) Law 2018. Police Procedure and Criminal Evidence (Jersey) Law 2003 AG v Sousa

[2019] JRC 236 Page Last Updated: 03 Sep 2020 BAILII: Copyright Policy | Disclaimers | Privacy Policy | Feedback | Donate to BAILII URL: https://www.bailii.org/je/cases/UR/2020/2020_141B.html

Source & reproduction note

Judgment wording, source notices and original paragraph numbers are retained. Esheria supplies the layout and this PDF's page numbers; these are not the source pagination. This is a research copy, not an official or certified court document. Check quotations, citations and publication restrictions against the original source before relying on it.

ORIGINAL SOURCE <https://www.bailii.org/je/cases/UR/2020/>

CASE PAGE <https://chat.esheria.ai/case-law/jersey/ag-v-bulpin-2020-jrc-141b-21-july-2020>

Prepared on 28 October 2026 · Esheria