

JERSEY / JUDGMENT

AG -v- Kafele [2015] JRC 052 (06 March 2015)

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JUDGMENT

THE commissioner: 1. You have pleaded guilty to downloading twelve indecent images of children, five at level 4 on the Copine scale, three at level 3 and four at level 1. You also had a video at level 3. Now this Court takes a serious view of the downloading of indecent images of children, not least because real children have suffered during the making of these images and people like you who download them, fuel the demand and therefore encourage evil people to make these images, do you understand? And the Court takes a particularly serious view when the images are at the higher levels of the Copine scale because the suffering of the children has been greater. It follows that a prison sentence almost invariably follows such offending. 2. But, the Court does regard yours as an exceptional case. We have no doubt that, as the psychological report and the probation report have made clear, your offending is very much related to the terrible events of your own childhood. And it is to your credit that despite those childhood events, you have reached the age of 43 without having committed any previous criminal offences, you have qualified as a nurse and followed a career as a nurse, you have three children and it is clear that you are extremely remorseful about what you have done and you are motivated to do something about it. It has also clearly had a devastating effect upon your life including, as we say, that fact that your son has been taken into, what one hopes is temporary, foster care. We have also read the very powerful letter from your church supporting you. So in all the circumstances we think this is an exceptional case and we do not need to send you to prison; so we are going to agree with the recommendations that are made. 3. On each of the Counts, we are going to place you on probation for 2 years with a condition that you undergo the psychological work as directed by your probation officer. You have seen the reports; it has been recommended you should have psychological work with the Psychological Services. We are making it a condition of your Probation Order that you must do that work. If you fail to do it then you will be in breach of your Probation Order and I will explain that in a moment. We think you must also be punished and therefore you must undertake community service. So on Count 1; 210 hours Community Service Order, which is equivalent to 15 months' imprisonment, Count 2; 70 hours' Community Service Order, equivalent to 2 months' imprisonment, Count 3; 70 hours' Community Service Order, Count 4; 210 hours' Community Service Order, Count 5; 210 hours' Community Service Order and Count 6; 140 hours' Community Service Order, which is equivalent to 8 months' imprisonment, all

of those concurrent. That makes a total of 210 hours in all. 4. We also order the forfeiture and destruction of the iPad and the Samsung mobile telephone. 5. We also tell you that you are now subject to the notification requirements which your Advocate will explain to you and we say that you cannot apply for 5 years to come off that. 6. We are also satisfied that, as with all offenders who download child pornography, the conditions for making a Restraining Order are satisfied and we are going to make the Restraining Order in the terms requested by the Crown. I am not going to read it out but you have seen it. It says that you must give access to your computer to a police officer at any time and you must make sure that your computer can display its history and you must not delete any of the history. And that will also be for 5 years. 7. I must tell you that have been quite fortunate because, as I say, prison is the normal consequence of your sort of offending. So I just want to explain that you must adhere completely to the Probation Order and the Community Service. If you do not do what you are directed either on Community Service by not turning up or not working hard, or if you do not do what your probation officer tells you or, of course, if you reoffend, then you can be brought back here and we will have to sentence you afresh. At that stage clearly the likelihood will be that you go to prison; so you must do exactly what your probation officer says and you must turn up on time for all the Community Service. 8. So that is sentence of the Court. Authorities AG v Godson and Crowley

[2013] (2) JLR 1. Camacho v AG

[2007] JLR 462 . AG v Lekkerkerker

[2013] JRC 217 . Page Last Updated: 27 Sep 2016 BAILII: Copyright Policy | Disclaimers | Privacy Policy | Feedback | Donate to BAILII

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