

JERSEY / JUDGMENT

AG v Lis [2025] JRC 007 (08 January 2025)

[2025] JRC 007

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

JUDGMENT

THE DEPUTY BAILIFF: 1. I determined various pre-trial issues at a hearing on 3 July 2024 prior to the subsequent trial of the Defendant, who was subsequently convicted by the Inferior Number. Count 2 was an allegation that he had made indecent photographs of children on or before 23 September 2022, namely two category B indecent images of children under the age of sixteen. On Count 3, was an allegation that he had made making forty category C indecent images of children under the age of sixteen, of which thirty-one were moving images, on or before the same date. The images were found on the Defendant's mobile telephone when he was arrested for the offence at Count 1, namely inciting a sexual act with an older child contrary to Article 12(1) of the Sexual Offences (Jersey) Law 2018, the particulars being that on 22 September 2022 on the railway walk, the Defendant incited a fourteen-year-old girl to engage in sexual activity with him. 2. As to the indecent images of children covered by Counts 2 and 3 on the Indictment, they were recovered from the Defendant's mobile telephone following an analysis by William Cloete, an investigator in the States of Jersey Digital Forensics Unit. Mr Cloete expressed the view that the images had been stored in the Instagram application library cache on the Defendant's mobile phone, indicating that the user (the Crown say - and the Jurats found - the Defendant) had viewed, liked or saved the images in the past. The Defendant's deleted web history also showed that at the time of the offending (September 2022), the Defendant appeared to have visited various websites using his mobile telephone with various incriminating title pages suggesting a sexual interest in girls under the age of sixteen. None of these searches could be specifically tied to any of the images recovered from his mobile telephone. Mr Cloete also discovered evidence that the Defendant had used a website for which he paid a subscription and created an account which he had used to search for material which again revealed a sexual interest in girls under the age of sixteen. 3. The hearing before me was listed in order to determine matter in issue between the parties namely the admissibility of a passage in Mr Cloete's first statement relating to images of children in swimwear which were not indecent images of children. Other pre-trial matters, including admission of certain Defendant bad character evidence, had been agreed. 4. At paragraph 18 of Mr Cloete's statement dated the 29 December 2022 he noted that there were 175 images of children mostly in swimwear in the 'same age range' (under 10 years old) as were the indecent images which were also found in the Instagram cache. In paragraph 10 of the statement he subsequently made on the 14 June 2024 he said that these images (in this statement he says 176 not 175) were pictures and movies of 'young girls modelling and dancing in swimwear and

leotards. ' 5. The Crown contended that this was not bad character evidence that they were seeking to adduce as it was misconduct " which has to do with the alleged facts of the offence with which the Defendant is charged " (see Article 82C of the Police Procedures and Criminal Evidence (Jersey) Law 2003) ("the Law"). 6. The Crown said that the evidence was relevant and probative to the issue as to whether the Defendant had a sexual interest in children, and that the admission of this evidence would not have such an adverse effect on the fairness of the proceedings for the Court not to admit it. The Crown said that the Jurats should be able to fairly assess the Defendant's credibility, in particular his assertion that he had no such interest, in circumstances where the Crown alleged that he had made indecent images of children and had incited a child to engage in sexual activity. 7. The defence argued that as there was no evidence as to when these images were viewed by the Defendant it may not have been the case that this was material that had " to do with the alleged facts of the offence with which the Defendant is charged " and accordingly this might properly be characterised as bad character evidence. 8. Whether or not it was bad character evidence, the defence argued that this material should be not admitted / ought to be excluded. If this was bad character evidence, then it was not " important explanatory evidence " under Article 82E of the Law as the Jurats would not find it impossible or difficult to understand the other evidence in the case without it. If it was not important explanatory evidence then if it was argued that it was evidence of propensity or relevant to an important matter in issue in the case, namely the Defendant's sexual interest in children or, if it was, it should in any event be excluded under Article 82E on the footing that the admission of the evidence would have such an adverse effect on the fairness of the proceedings that the Court ought not to admit it. 9. If the evidence was not bad character evidence, the defence contended that it was not relevant at customary law and it if was then it ought to be excluded under Article 76 of the Law which allows the Court in its discretion to refuse to allow evidence in circumstances where the admission of the evidence would so adversely affect the fairness of the proceedings that the Court ought not to admit it. 10. In some respects, the defence arguments boiled down to the submission made by defence counsel that the Crown have " more than enough " evidence in this case and did not need this additional material of marginal relevance and little probative value in the context of the case as a whole. The defence argued that this material was not sufficiently helpful to the Court to warrant its admission. 11. Although I might have reached a different conclusion if the factual matrix was different to the one which pertained in this case, I concluded that the relevant paragraphs of Mr Cloete's evidence which referred to these one hundred and seventy-five additional images of children should not be admitted. The images were not indecent and, in the context of this case, the probative value of such material would be very limited having regard to the wealth of other evidence available to the Crown. The Jurats would not be assisted by this material, and its slight probative value would be outweighed by the unfairness of admitting it. Authorities Sexual Offences (Jersey) Law 2018. Police Procedures and Criminal Evidence (Jersey) Law 2003. Page Last Updated: 16 Jan 2025 Back to top About JLII Accessibility Contacts Copyright Disclaimer Feedback Privacy policy Site map BAILII: Copyright Policy | Disclaimers | Privacy Policy | Feedback | Donate to BAILII

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/2025/>

CASE PAGE <https://chat.esheria.ai/case-law/jersey/ag-v-lis-2025-jrc-007-08-january-2025>

Prepared on 23 October 2026 · Esheria