

JERSEY / JUDGMENT

AG -v- Lochhead [2014]

JRC 093 (11 April 2014)

[2014] JRC 093

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JUDGMENT

THE BAILIFF: 1. You exposed yourself in public in the presence of young teenage girls, usually on the beach, once in the bus station and another time at a bus stop, on some nine separation occasions, three of them in the summer of 2012 and six in the summer of 2013. On three of those occasions you were masturbating, albeit not to ejaculation. Following your arrest the police found nine indecent images of children on your computer, but it is right to say that these were at Level 1 on the relevant scale, which means that they were erotic posing but no sexual activity in those images. It is not your first offence for exposing yourself because in 2006 you appeared before the Magistrates Court for two such offences and you were given a suspended sentence of 3 months' imprisonment. 2. Your advocate has put before us all the things that can be said on your behalf. She has emphasised your guilty plea and particularly your remorse, and we have read your letter. She supports that by reference to the probation report which assesses your remorse as being genuine. She points to your good work record and the reference. 3. Nevertheless, normally such offences, particularly where there is an element of something such as masturbation, will attract a prison sentence. In this case the Probation Service and the psychological report recommend against that course. They say it would achieve nothing in terms of addressing your issues. They recommend that there be a Probation Order which enables you to undertake the necessary courses to make sure that those issues are addressed. What has particularly influenced us is that you have in fact been doing this voluntarily with the Probation Service and with others since your arrest back in July of last year. In all the circumstances we have just been satisfied that society's best interests are served by making sure you get proper treatment to address these issues so that you do not do it again, rather than by sending you to prison, where the likelihood is that you would come out with the problems unaddressed, or at any rate not addressed so satisfactorily. So we are going to agree with the recommendation of the Probation Service. 4. We are going to impose a Probation Order for 2 years, concurrent upon each charge but, as well as getting the help from Probation and attending the courses which they direct you to attend, you must be punished for what you did. So we are also going to impose Community Service, which means you can repay what you have done by working free for the community. We are going to impose a total Community Service sentence of 240 hours' which we say is the equivalent of 18 months' imprisonment. As a matter of detail it will be Count 1; 120

hours', Count 2; 210 hours', Count 3; 120 hours', Count 4; 120 hours', Count 5; 210 hours', Count 6; 120 hours', Count 7; 120 hours', Count 8; 120 hours', Count 9; 210 hours', Count 10; 30 hours', consecutive, making 240 hours' in all. 5. You will be placed on the Register and we say it must be at least 5 years before you can apply to get off that. 6. As to the Restraining Orders that have been asked for by the Crown, we are going to make the first two orders which relate to your computer because the Court takes the view that anyone who views indecent images does pose a threat of serious sexual harm to those unfortunate children who are the subject of the making of those images. However, we are not going to make the other two orders as requested by the Crown as we do not think that that is necessary in this case, given the particular nature of your offending and the contents of the Probation Report. We say that these Restraining Orders will last for 5 years from today. 7. The Court is giving you a chance. You must not think that you have escaped lightly. These courses that are to be undertaken with Probation are to be rigorous and you are to attend them. If you do not do what the Probation Service tells you and attend all the necessary courses, if you do not turn up on the dot to do the Community Service and do it properly, if you were to re-offend, then you will be brought back here and at that stage the likely outcome is that you will be sent to prison. 8. We order the forfeiture and destruction of the computer. Authorities AG v Godson and Crowley

[2013] JRC 091 . R v Pedley [2000] WL 1629537. R v Cosco [2005] EWCA Crim 207. Sentencing Guidelines Council's Definitive Guidelines for Sexual Offences Act 2003 (extracts). Sexual Offences (Jersey) Law 2007. R v Smith and Ors

[2012] 1 Cr App R (S) 82 . Page Last Updated: 23 Sep 2016 BAILII: Copyright Policy | Disclaimers | Privacy Policy | Feedback | Donate to BAILII

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Prepared on 24 October 2026 · Esheria