

JERSEY / JUDGMENT

AG -v- Maguire [2012]

JRC 089 (04 May 2012)

[2012] JRC 089

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JUDGMENT

THE DEPUTY BAILIFF: 1. The Court is satisfied that you pose a notable risk of sexual reconviction. We have noted the Stable 07 tool shows a profile within the high risk band in the view of the Probation Officer and accordingly we think it is right that you are inevitably under the legislation subject to the notification requirements and that the minimum period during which these will apply is 5 years. In other words you cannot make any application to the Court until 5 years have gone by for the notification requirements to be disapplied to you. Under the Law they continue until they are disapplied and you cannot apply to have them disapplied for 5 years. 2. We also are satisfied that it is necessary to make restrictive orders and the orders made are as follows. They run for a period of 5 years from the date of your release:- (i) that you produce to a police officer forthwith on request for examination, from time to time, any computer or any device which may access the internet, or any telephone or mobile phone or any device which can store images electronically, which belongs to you or is in your possession, it being noted that such request may be made anywhere, including by the police officer attending at your place of residence. (ii) that you are prohibited from owning or having in your possession or having access to any device capable of accessing the internet unless it has the capacity to retain and display the history of internet use and unless you ensure that the history is not deleted. (iii) you are prohibited from engaging in any form of teaching, training or instruction of children under the age of 16, or from any form of care, advice, guidance or therapy of children under the age of 16, or from acting as a driver for any activities involving children under the age of 16, without the prior written approval of the Probation Service. 3. You are charged with five offences, four of making indecent photographs contrary to the Protection of Children (Jersey) Law 1994 and the fifth one, possession of a controlled drug, cannabis. In relation to the making of photographs the period over which the charges run is from January 2010 until December 2011. It is accepted by you that although the material may have been deleted from the computer the history of offending started before January 2010 but you are here to be sentenced for those offences and those offences only. We note from the summary of the enquiries that have been made that a total of 1,746 images have been revealed; 1,005 at Copine level 4 and 69 at Copine level 5. The level 4 movies involve penetrative sex, oral, vaginal and anal penetration by adult males on male and female children aged between 3 and 14. The level 5 movies involved penetrative sex on an infant

aged between 12 and 18 months as well as other sequences showing children restrained by rope or engaging in bestiality. The movies show that the distress of the children was quite often apparent, unsurprisingly. 4. Never let it be thought that these offences are victimless crimes. They are not victimless crimes. Real children have suffered real distress and their lives will have been ruined as a result of the making of these films and by looking at them you encourage the market in such activity. The Court's approach to this sort of conduct has been well settled and the Court is in doubt at all that there must be a custodial sentence. 5. We have looked at the guidelines in the English case of *R v Oliver* [2003] 1 Cr. App. R. 28, to which reference has been made in this Court in the past and we have also considered the other cases which have come before this Court. 6. You do have a significant amount of mitigation. We have had regard to everything your Counsel has said. We note that you have entered a guilty plea at a very early stage and we note that you are deeply ashamed and sorry for what you have done and the Court does not have any doubt about that. We note that you have been cooperative with the Police and we have had regard to all the material before the Court including the Social Enquiry Report. 7. It may well be that your real penalty for the future is going to be the shame that you bring upon yourself and your family and you are lucky to have the continuing support of your mother and your daughter and we have looked at those references. You clearly will have further difficulties when you come out of prison in due course, in the sense that finding employment is going to be a potential problem for you. Nonetheless and having regard to the personal tragedy which you have suffered as well and of course we have regard to that, you must be sentenced for what you have done and the Court, while it has considered increasing the conclusions of the Crown, has decided on balance that the right sentence is to grant those conclusions as they stand. 8. Accordingly on Count 1 you are sentence to 18 months' imprisonment, on Count 2 to 2 years' imprisonment, on Count 3 to 1 year's imprisonment, on Count 4 to 2½ years' imprisonment and Count 5 no separate penalty. All the prison sentences will run concurrently which means that you will be sentenced to a term of 2½ years' imprisonment. 9. The Court orders the forfeiture and destruction of the drugs. 10. The Court also orders the forfeiture and destruction of the computer equipment as requested by the Crown. This is the equipment which is related to the charges which have been laid and it does not include the iPad which has not been used for the purposes of offending and it does not include the camcorder tapes which were not part of the investigation which we are understand that contain family videos which you would wish to understandably keep. Authorities Protection of Children (Jersey) Law 1994. *R v Oliver* [2003] 1 Cr. App. R. 28. AG-v-U

[2011] JRC 219 . AG-v-Green

[2011] JRC 082 . AG-v-Rowe

[2011] JRC 046B . R-v-Smith and Ors

[2012] 1 Cr App R (S) 82 . Sex Offenders (Jersey) Law 2010. Page Last Updated: 13 Sep 2016 BAILII:
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