

JERSEY / JUDGMENT

AG -v- Videgrain [2014]

JRC 040 (14 February 2014)

[2014] JRC 040

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JUDGMENT

THE BAILIFF: 1. The Court has said repeatedly that the downloading of indecent images of children is not a victimless crime, particularly where the images are at levels 4 or 5 of the Copine scale. Real children have been subjected to the depraved sexual practices which are shown in the films or the pictures, with all the suffering and damaging consequences which flow from that and those who download this material provide a market for the evil people who make these films and therefore they indirectly contribute to the suffering of these children. That is why the Court has repeatedly said that, save in exceptional circumstances, a prison sentence will be imposed in such cases. 2. We are going to deal briefly with the notification requirements as we are invited to by the statute. We say that you will be subject to the notification requirements for 5 years from the date of today. We also make the restraining orders in the terms requested by the Crown Advocate, again for a period of 5 years from today. 3. Returning to the facts of this case, you downloaded 1,429 images over a 6-year period of which 391 were at levels 4 and 5, in other words, images which involved the serious abuse of children to which I have just referred. Of these 391, 60 were movies. We accept, as your advocate says, that it is possible that there is some duplication in the numbers but nevertheless the number remains in that region. 4. In accordance with the leading case of AG-v-Godson and Crowley

[2013] JRC 091 this suggests an initial point of 3 years. We must consider whether there are aggravating features and whether there are mitigating features which vary that figure. 5. The only aggravating feature in this case is the number. It is over three figures and therefore, technically, is a higher number than is envisaged in Godson ; but we do note that it is not particularly high. What Advocate Landick has said is that there is exceptional mitigation in this case so that we can impose a non-custodial sentence and we certainly accept that there is very powerful mitigation. You have pleaded guilty; so do many others, but in your case you were extremely cooperative from the start. The police described you as being commendably cooperative and the background report described you as being refreshingly candid. The report makes it clear that you are really very remorseful and that this remorse is genuine. You seem to have realised that the part you played by downloading this material really does contribute indirectly to the suffering of children. You have an excellent work record of which we have read and we have seen the

references. Most significantly, you have also been voluntarily seeking help since your arrest and we commend you for that and it has had an effect on the sentence that we are going to pass. 6. We have also carefully considered the reports, the psychological report and the background report, the latter recommending a non-custodial sentence. We have considered very carefully whether we can impose a non-custodial sentence but we have concluded that we cannot. Those who download material at levels 4 and 5, in particular, must realise what they are doing and they must realise that it is a serious offence and it is likely to result in prison. Only by adhering to that policy can the Court make clear society's disapproval of what has happened and do what it can to minimise the suffering of young children in future. 7. Nevertheless, we do accept that the mitigation in your case is extremely powerful. Were it not for that, the Crown's conclusions would have been correct. But we think that the mitigation is particularly strong in this case and therefore we are going to reduce the conclusions. 8. The sentence in your case is one of 18 months' imprisonment, concurrent, on each count. 9. We also order the forfeiture and destruction of the equipment. Authorities Sex Offenders (Jersey) Law 2010. AG-v-Godson and Crowley

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