

JERSEY / JUDGMENT

AG v Windsor [2023] JRC 104 (02 June 2023)

[2023] JRC 104

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JUDGMENT

BAILIFF: 1. You are to be sentenced today for 10 offences relating to the downloading and distribution of indecent images of children. As the Crown has stated you made over 4000 such images covering a range of categories and over a significant 2 year period, and you distributed nearly 500 of those images. 2. The offences came to light when a warrant was issued in July 2022 following the receipt by the States of Jersey Police, of intelligence relating to the uploading of indecent images. 3. When officers attended you claimed that you had not been distributing any illegal images but had been looking at them for the purposes of finding out who was responsible for them. 4. During your first interview you again claimed that you had decided to exchange certain images of naked girls in order to catch these people who had made indecent images. You described being asked to alter images by those who sent them to you, keeping a number of images in download folders, but you denied having a sexual interest in children. 5. An examination of your desktop computer and hard drive revealed some 1000 Category C indecent images but there were likely many more. The images related mainly to female children aged between 6 and upwards. 6. You were using specialist software for generating pornographic images. You also had a file cleaning tool designed to erase files or evidence of user activity. You have sent a number of messages of a highly sexual nature relating to young children, which have been referred to by the Crown in the Statement of Facts and which we have had the opportunity of reading in more detail. 7. Other hard drives were examined, and a number of images were sampled, and many thousands were found although many more were not reviewed. 8. In your second interview you repeated the claim that you wanted to catch paedophiles, you repeated your denial that you had any sexual interest in children, and you provided an explanation for some of the search terms that you had used. 9. The Crown reminds us that under Article 2 of the Protection of Children (Jersey) Law 1994 the maximum sentence for making or distributing indecent photographs of children is one of 10 years imprisonment. The length of such a sentence is determined, as the Crown has also reminded us, by reference to the case of AG v Godson & Crowley

[2013] 2 JLR 1 . 10. We adopt the approach set out in that case. We agree with the Crown's assessment of the assumptions under the Godson case, in as much as clearly you were an adult at the time and had no relevant previous convictions. The assumptions that do not apply are that there were a small number of images (in this case there were many thousands); the making of images was for your benefit alone (they were in fact

distributed); and the sentencing process results from a contested trial (it obviously did not as you have pleaded guilty, to your credit, at the earliest opportunity). 11. There were a large number of images and significant distribution over a 2 year period and we note that some of the images were moving and this is factor that may be seen as an aggravating feature. 12. We also note that you were a Constables Officer in the Honorary Police between 2005 and 2014 and the Court bears in mind the dicta of this court in the case of AG v Whitehouse

[2015] JRC 224 where in sentencing a retired Police Officer who had also worked for the Charity 'Prison Me No Way' (PMNW) for three years the court said: "...we think there are seriously aggravating features in that you were a serving police officer and also subsequently worked for PMNW; because your conduct brings, as you have acknowledged, shame on both the police force and upon that charity which is a charity which has as its object the keeping of children out of custody." 13. We should say, should there be any doubt, that we do not accept the explanation that you have given on previous occasions that you were collecting evidence to assist the prevention of this type of offending. Given the period over which you were dealing with this material, its amount, its variety, what you did with it and indeed the communications that you had in connection with it, we have no doubt that you were engaged in this for your own sexual gratification. We think that you have come to accept that that is the case and the consequences that flow from that. 14. Of course, we give you full credit for the mitigation that is available to you. Primarily, you were completely cooperative with the police, and you provided passwords even though you minimised your engagement initially in this kind of material. You have no previous convictions and may be treated as a person of otherwise of good character, although of course we note the Court's observations in AG v Matthews

[2020] JRC 186A as to the relatively modest weight to be given to previous good character in offences of this nature. 15. We note and observe of course that you are 80 years of age, and we agree with the Crown that any sentence of imprisonment will be harder on you, than it might on a younger man. We agree that this is not a very substantial mitigating factor, but we do accept that it affords some mitigating value and we note what we have heard from your counsel about your state of health. 16. Turning first to the Sex Offenders (Jersey) Law 2010 we agree the period of 5 years should pass before you may seek that the notification requirements are disapplied and we also make the restrictive orders requested by the Crown in the following terms: (i) Firstly, you will be prohibited from (a) owning or having in your position, or having access to any device capable of accessing the internet or any device capable of storing electronic data downloaded from the internet, unless: 1. It has the capacity to retain and display the history internet use; 2. You ensure that such history is not deleted; and 3. That you register any device with the Offender Management Unity of the States of Jersey Police. (b) Secondly, you are prevented from utilising any Cloud or similar remote storage media unless you declare such use and provide account details to the Offender Management Unit and provide access to it on request for inspection by a member of that unit. (c) Thirdly, you are prevented from possessing any device capable of

storing digital images unless you make it available on request for inspection by a police office, or a member of the Offender Management Unity, which shall include removal of the device in order to facilitate the inspection. (d) You are prevented from installing and/or using any electronic peer to peer file sharing program or website and (e) You are prevented from using software or hardware to encrypt or otherwise hide you IP address. (ii) Secondly, you may not refuse access to police officers who are monitoring or checking on this restraining order and you must allow officers entry into any premise you occupy or you are in control of for the purposes of searching for relevant devices. (iii) You must provide advance notification details of any proposed changes of address or employment (including any voluntary roles) that will have to be approved by the Offender Management Unit at the States of Jersey Police. 17. This court has often said, and it has been repeated before us today, that the making of illegal images of children is not a victimless crime. We repeat that. Real children are abused in the creation of this material, and it was naïve in the extreme that you did not appreciate the true nature of this abhorrent trade. 18. However, we accept that you have come to recognise the reality of the situation and that you are genuinely sorrowful about it. We have considered the matter in the round, but we cannot conclude other than the fact that the Crown has assessed the starting point in each account appropriately and has made the appropriate deduction to reflect mitigating factors and accordingly we are going to impose the sentence for which the Crown has moved which is as follows: (i) Count 1, from a starting point of 10 months, 6 months' imprisonment. (ii) Count 2, from a starting point of 5 years, 2 years and 2 months' imprisonment. (iii) Count 3, from a starting point of 27 months, 15 months' imprisonment. (iv) Count 4, from a starting point of 10 months, 6 months' imprisonment. (v) Count 5, from a starting point of 5 years, 2 years and 10 months imprisonment. (vi) Count 6, from a starting point of 27 months, 15 months' imprisonment. (vii) Count 7, from a starting point of 10 months, 6 months' imprisonment. (viii) Count 8, from a starting point of 6 years, 3 years and 6 months' imprisonment. (ix) Count 9, from a starting point of 3 years, 1 year and 9 months' imprisonment. (x) Count 10, from a starting point of 1 year, 7 months' imprisonment. 19. All sentences to be served concurrently making a total of 3 years and 6 months imprisonment. 20. We order the forfeiture and destruction of the black tower computer and hard drive, the western digital hard drive and Samsung hard drive, suspended for three months to allow family to make arrangements for retrieval of family photographs. Authorities Protection of Children (Jersey) Law AG v Godson & Crowley

[2013] 2 JLR 1 . AG v Whitehouse

[2015] JRC 224 AG v Matthews

[2020] JRC 186A. Sex Offenders (Jersey) Law 2010. AG v Le Gallais [2021]

(1) JLR 24. R v Smith and Ors

[2012] 1 Cr App R (S) 82 . Page Last Updated: 09 Aug 2023 [Back to top](#) [About JLJB Accessibility](#)
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