

JERSEY / JUDGMENT

K v AG [2023] JRC 136 (01 August 2023)

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JUDGMENT

THE DEPUTY BAILIFF: 1. The Applicant applies to the Court today for an order that he no longer be subject to the notification requirements imposed upon him under the Sex Offenders (Jersey) Law 2010 ("the Law"). 2. He has been subject to those requirements since his conviction for offences of making indecent images of children contrary to Article 2(1)(a) of the Protection of Children (Jersey) Law 1994 . When he was sentenced, the Court ordered that a period of 5 years must expire from the date of his conviction before an application could be made under Article 5(5) of the Law. That period elapsed some time ago. 3. The Applicant has requested the application should be heard in private and the judgment anonymised. 4. We have considered this with care. The Offender Management Unit ("OMU") of the States of Jersey Police has expressed the view that it is necessary for this matter to be held in private to avoid the potential destabilisation which may be caused to the Applicant and his family by negative publicity. We are conscious of the need not to deter persons who ought not to be subject to notification requirements from making applications to the Court. In some jurisdictions, notification requirements simply come to an end at the end of a period set by the Court. The Law does not make such provision and therefore it is for an applicant, either unrepresented or without the assistance of legal aid but via counsel, to make such an application. The Applicant today is unrepresented. He has said in his letter to the Court that his conviction gave rise to various difficulties for himself and others for which, of course, he is to blame but his friends and family have tried to move on from what happened and it is unnecessary for the original circumstances of his offending to be highlighted for the purpose of this application. For this and other reasons which he sets out in his letter to us we are satisfied that it is necessary that this matter should be considered in private but that the judgment will be published, as anonymised, in due course. 5. Article 5(5) of the Law provides that: "The court may, on application, make an order in respect of a person...at any time after the expiration of the period specified in respect of the person...being an order to the effect that the person should no longer be subject to those requirements." 6. The test the Court must apply is set out in Article 5(6) which says: "The court must not make the order applied for under paragraph (5) unless it is satisfied that the risk of sexual harm to the public, or to any particular person or persons, that the person subject to the notification requirements of this Law poses by virtue of the likelihood of re-offending does not justify the person's being subject to those requirements." 7. The Court has obtained reports from the OMU and from the Probation Service. The OMU report notes that the Applicant was assessed, by virtue of the

offences he committed, using the Child Pornography Offender Risk Tool ("CPORT") to evaluate the likelihood of an adult male being charged with further non-contact or indecent image offences. The Applicant was assessed as lower risk in each of the 7 categories. This offender management tool is in the earlier stages of its development and although it is a useful indicator of recidivism, should be used with caution we understand. The Applicant was also assessed using the SA07 Stable and Acute Risk Assessment tool. In relation to both assessments, the Applicant's score is 'low'. Persons are assessed by virtue of that tool as being at low, moderate or high risk and any person who scores between 0 and 3 on assessment is in the low category. The Applicant's score was zero

- the lowest possible score. In particular he is now in stable accommodation, a stable relationship, has no negative social influences in his life and his sexual pre-occupation is also low. 8. The report concludes by saying " There is no evidence or intelligence that [the Applicant] is likely to re-offend or presents a risk of sexual harm to the public or to any particular person or persons". 9. The Probation Officer's report speaks to the Applicant's physical health, which is now poor, and the joint risk assessment conducted by the police with him. The Probation Officer is in agreement on the overall risk presented as assessed by the OMU and with the outcome of its assessment. Accordingly, the Attorney General did not oppose the application and the Court was satisfied, as it must be pursuant to the statutory test, that the risk of sexual harm to the public or any person or persons does not justify the Applicant being subject to the notification requirements under the Law any longer. Accordingly, we granted his application. Authorities Sex Offenders (Jersey) Law 2010. Protection of Children (Jersey) Law Page Last Updated: 07 Sep 2023 Back to top About JLII Accessibility Contacts Disclaimer Feedback Privacy policy Site map © Jersey Legal Information Board 2001- 20262023 (External) BAILII: Copyright Policy | Disclaimers | Privacy Policy | Feedback | Donate to BAILII

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