

JERSEY / JUDGMENT

M -v- AG [2018] JRC 087 (15 May 2018)

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JUDGMENT

THE DEPUTY BAILIFF: 1. By representation dated 3rd November 2017 M ("the applicant") applied to be removed from the notification requirements contained in the Sex Offenders (Jersey) Law 2010 ("the Law"). On 8 th February, 2018, the Court granted his request. At that time we indicated that we would give very brief reasons, which we now do. 2. On 3 rd July, 2015, the applicant pleaded guilty to one count of incest, one count of indecent assault and one count of procuring an act of gross indecency. All of the offending took place against the same victim, his sister, when the applicant was between 10 and 14 years of age. He was sentenced to an 18 month probation order with 312 hours of community service which he completed on th January, 2017. 3. By virtue of Article 3(1) of the Law the applicant was also made subject to a notification order. The minimum period before which the applicant could apply under Article 5(5) of the Law was set as two years from 3 rd July, 2015. The applicant was one of two co-accused, the other being his younger brother. We have already considered the co-accused's application to be removed from the notification requirements contained in the law and our reasons are set out in the judgment of the Court of AG-v- N

[2018] JRC 011 . 4. We do not need to go into the background of this matter nor indeed what the Court said during sentencing. These matters are stated so far as is appropriate in the judgment to which we have made reference above. 5. As with his brother, in this case the applicant seeks to have an order that his application be dealt with in private and thereafter that he be relieved of the reporting requirement under the Law. We do not need to set out the Law dealing with both of those applications as these are also set out in the judgment referred to above. 6. Neither the application for the matter to be dealt with in private nor the ultimate relief sought by the applicant is opposed by the Crown, which is supportive of both. 7. The arguments put forward on behalf of the applicant for an order that the application be dealt with in private were as follows:- (a) That he was a child when he committed the offences (aged between 10 and 14); (b) The Court expressed the view that the defendant should not be named as this would protect the victim. Accordingly, his name is not within the public domain at present; (c) There have been no change in circumstances to suggest that the applicant should now be named; (d) He is assessed as being at low risk of re-offending; (e) The application is not contested; (f) Publicity surrounding the application would damage the applicant and would likely have an adverse effect on his personal life and employment; (g) According to the report of Detective

Constable Kim Newth, the victim in this case has not been contacted to ascertain if she has any concerns in relation to deregistration. The victim's family confirms that she believes that once the notification period has expired the reporting requirements naturally fall away and she believes that her brothers are no longer subject to it. Were publicity to be given to any application by the applicant then it may "do her [the victim] more harm than good". 8. These are not dissimilar to the reasons advanced with regard to the co-accused and taking these various matters into account we determine that the circumstances of both the offending and of the applicant were exceptional in nature and they justified sitting in camera and the anonymisation of any eventual judgment and we so ordered. 9. Turning to the merits of the application the following points were of relevance:- (a) The applicant is assessed at low risk of general reconviction. (b) He was a child at the time of the offending and there are no standardised tools to specifically assess the risk of sexual reconviction. As a result, the applicant has met with Dr Briggs who has confirmed that the nature of the index offence is usually associated with a lower risk of recidivism. He, Dr Briggs, supports the application. (c) DC Newth's report confirms that the applicant has been managed as low risk. He has complied with probation and completed his community service order. He had required minimal supervision by the Offender Management Unit and all of this supports the fact that he is characterised at a low risk of reoffending. (d) He is in stable employment and is engaged to be married. There was no indication that he is subject to any alcohol misuse and he appears to have a positive social network. 10. These also were similar to the arguments advanced in connection with the co-accused. There is a distinction between the offending of the applicant and the co-accused in that the applicant, as the older brother, was the instigator and the co-accused was led by him to carry out the offending. That being said, however, the applicant was, as we have said, a child at the time of the offending and we of course pay regard to the fact that he is assessed as of low risk of reoffending. 11. We have been assisted in our determination by a number of documents, some of which we have made reference to above. In particular we have seen the de-notification report by DC Newth of the Offender Management Unit, an addendum report from DC Newth, a de-notification report by Sarah Heywood of the Probation Service, the 2015 social inquiry report by the same officer in connection with the sentencing and the psychological report by Dr Briggs. We note that Dr Briggs had met with the applicant at the Probation Office during April 2017 and made the assessment that the applicant's "risk profile has lowered due to there being no evidence that the defendant displays deviant sexual interests or that he is engaged in any further offending since the index offences which occurred over 10 years ago". 12. In our view in the light of all the information presented before us we are satisfied that the risk of sexual harm to the public, or indeed to any particular person or persons, is low and does not justify the applicant being subject to the requirements of the Law. 13. Accordingly we made the order that the notification requirements shall be discontinued. Authorities Sex Offenders (Jersey) Law 2010. AG-v- N

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Prepared on 22 October 2026 · Esheria