

WARNING: reporting restrictions may apply to the contents transcribed in this document, particularly if the case concerned a sexual offence or involved a child. Reporting restrictions prohibit the publication of the applicable information to the public or any section of the public, in writing, in a broadcast or by means of the internet, including social media. Anyone who receives a copy of this transcript is responsible in law for making sure that applicable restrictions are not breached. A person who breaches a reporting restriction is liable to a fine and/or imprisonment. For guidance on whether reporting restrictions apply, and to what information, ask at the court office or take legal advice.

This Transcript is Crown Copyright. It may not be reproduced in whole or in part other than in accordance with relevant licence or with the express consent of the Authority. All rights are reserved.

IN THE COURT OF APPEAL
CRIMINAL DIVISION

Case No: 2024/00827/A5
[2024] EWCA Crim 591



Royal Courts of Justice
The Strand
London
WC2A 2LL

Friday 10th May 2024

B e f o r e:

LADY JUSTICE WHIPPLE DBE

MRS JUSTICE FARBEY DBE

MR JUSTICE WALL

R E X

- v -

DARREN HUGH HOLLYWOOD

Computer Aided Transcription of Epiq Europe Ltd,
Lower Ground Floor, 46 Chancery Lane, London WC2A 1JE
Tel No: 020 7404 1400; Email: rcj@epiqglobal.co.uk (Official Shorthand Writers to the Court)

Mr Z Ahmed appeared on behalf of the Appellant

J U D G M E N T

LADY JUSTICE WHIPPLE:

1. The appellant appeals, with the leave of the single judge, against his sentence of 30 months' imprisonment for various counts of making and distributing indecent photographs of children, contrary to section 1(1)(a) and (b) of the Protection of Children Act 1978. That sentence was imposed on 16th February 2024 in the Crown Court at Portsmouth by His Honour Judge Ashworth. The appellant had pleaded guilty to those counts. The usual consequential orders were made, requiring the appellant to notify the police and to be included in the Disclosure and Barring Service List. No issue arises in relation to those consequential matters.

The Facts

2. On 26th January 2023 police officers arrested the appellant at his home address in Bognor Regis. Various electronic items were seized. An iPhone and iPad were found to contain indecent images of children. There were 185 category A images, 123 category B images and 217 category C images. These included a small number of moving images across all three categories. The creation dates of the images were between 17th February 2013 and 30th January 2023. One of the category A moving images depicted the rape of a boy aged between 5 and 8 while in a state of distress.

3. Data from the iPhone showed that the appellant had conversed with someone calling himself "Paul". Both men had indicated a sexual interest in children. On 28th September 2021 the appellant sent a number of images to "Paul". He sent two category A images, two category B images, and one category C image. The age range of the children in the images was between 7 and 12.

4. The appellant made admissions during his police interview and attributed his actions to being in a "bad place" at the time, having been under the influence of alcohol, and having issues with his health and self-esteem.

The Sentence

5. In passing sentence, the judge noted that although he had two previous convictions for five offences, the appellant had no relevant previous convictions. The judge took count 8 as the lead offence. That was the most serious offence involving an online conversation with "Paul", where the two were encouraging one another to commit paedophile offending. Five images were shared, including two images which fell within category A. Of those, one image was of a male aged 9 or 10 and another small child. The other was of two male children abusing each other. The judge noted the multitude of other category A, B and C images which represented instances of abuse of children.

6. Under the guideline the starting point was three years' custody. The judge noted the aggravating factors present in the case as follows: the use of security software; the young age and vulnerability of some of the children (some were as young as 1); the obvious pain and distress of the children shown on some of the images; the period of time over which the images were in the appellant's possession; and the fact that there were moving as well as still images. He also noted that such aggravating features did not apply necessarily to the particular images which had been distributed to "Paul". As mitigation, the judge noted: the appellant's expressed remorse; that he had undertaken work with the Lucy Faithfull foundation; that the distribution was limited to a single occasion; and that there was no previous similar offending.

7. The judge said that the notional sentence after trial would have been one of 40 months' imprisonment, which he reduced by 25 per cent for the guilty plea entered at the plea and trial

preparation hearing, which gave a final sentence of 30 months' imprisonment on count 8, with concurrent sentences of eight months' imprisonment on the other counts.

The Grounds of Appeal

8. By grounds of appeal drafted by Mr Ahmed, who represented the appellant at trial and in this appeal, it is submitted that the judge's notional sentence after trial of 40 months was too long, such as to be manifestly excessive. The fact that there was a single distribution of images should, he argues, put this offending at the bottom of the range to arrive at a notional sentence, before credit for the guilty plea, of around two years' imprisonment. He argues that there was exceptional mitigation which served to reduce the sentence yet further.

9. In his written argument, but not pursued before us orally today, he submitted that the sentence should have been suspended, applying the Sentencing Council's imposition guideline, and bearing in mind the appellant's personal circumstances. We are grateful to Mr Ahmed for his helpful written and oral submissions.

Discussion

10. There is and can be no dispute about the categorisation of these offences. They are category A, and count 8 involved distribution. In our judgment the judge was right to take three years as the starting point for determining sentence.

11. The judge then indicated the aggravating factors which served to increase the sentence. To recap, those were: the use of security software; the young age and vulnerability of some of the children (some as young as 1); the pain and distress shown on the images; the period of time over which the images were held; and the fact that there were moving as well as still images. Further, we note that the judge was, of course, sentencing for multiple counts. He used count 8 as the lead offence, so that the existence of the other counts served as aggravation. That is implicit in the judge's sentencing remarks. Mr Ahmed does not attack

any of the factors the judge took into account in terms of aggravation. In our judgment it was inevitable that the judge would go up from three years in the light of them.

12. The judge took account of the appellant's mitigation. It is to be inferred that he did not think that mitigation was particularly weighty when it was balanced against the aggravating features. Contrary to what has been argued on behalf of the appellant, the judge did take account of the fact that this was a single offence and the circumstances in which that offence was committed. He included that factor as part of the mitigation. The judge was well aware that this distribution was solicited by another and that it was in that sense different from some of the other cases that come before the courts.

13. The judge expressly took into account the expression of remorse by the appellant, his attendance on the Lucy Faithfull courses and the fact that he had no similar previous convictions. The judge did not address in terms the other mitigation that was reflected in the pre-sentence report which goes to the appellant's personal circumstances, namely his psychiatric issues and difficulties during his childhood years. But, on the other hand, the appellant is now in his 50s, and the nature and extent of the psychiatric difficulties was not particularly unusual in the context of this or any offending.

14. Standing back and reflecting carefully upon all the submissions that have been advanced, we are not persuaded that a notional sentence of 40 months' imprisonment after a trial lay outside the reasonable range open to the sentencing judge. There is no dispute about the credit of 25 per cent which was accorded for the guilty plea.

15. In our judgment, this sentence was not manifestly excessive. Accordingly, the appeal is dismissed.

Epiq Europe Ltd hereby certify that the above is an accurate and complete record of the proceedings or part thereof.

Lower Ground Floor, 46 Chancery Lane, London WC2A 1JE

Tel No: 020 7404 1400

Email: rcj@epiqglobal.co.uk
