



JUDICIARY OF  
ENGLAND AND WALES

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**-v-**

**Victor Melleney**

**Kingston-Upon-Thames Crown Court**  
**Sentencing Remarks of Mr Justice Bryan**  
**14 January 2022**

1. Victor Melleney, on 17 December 2021 you were convicted by the jury of possessing 832 indecent images of children, contrary to section 160 of the Criminal Justice Act 1988. Some 285 of these images were of the highest Category A (images involving penetrative sexual activity involving children) of which some 278 were moving images (the total number of moving images in Categories A, B and C found totalled some 104 hours). I must now sentence you for such offending.
2. You also stand to be sentenced in respect of four counts of possession of a prohibited weapon contrary to section 5(1)(b) of the Firearms Act 1968, in respect of which you pleaded guilty at an early stage, and for which full credit will be given for such guilty pleas. These concerned four separate weapons namely an air taser device, a black baton taser device, a black spray device (each found at one of your residential addresses) and a further black taser (found in your car).
3. It is rightly accepted on your behalf that the offences for which you are to be sentenced cross the custody threshold. An issue that arises is whether an immediate term of imprisonment should be imposed or whether any such sentence should be suspended with attached conditions (a suspended sentence itself being a custodial sentence).
4. Possession of indecent images of children is a serious sexual offence. It fuels child sexual abuse and the untold suffering and harm to children who are abused, and photographed and videoed being abused, often at or from a young age, and with profound and in many cases lifelong adverse consequences for them. As such it is the very antithesis of a victimless crime. On the contrary those who possess indecent images of children are the end recipients of images of child victims being sexually abused for the gratification not only of those doing the abusing but, in many cases, for the gratification of others. It is offending such as yours which fuels both child sexual abuse, and the dissemination of images of such abuse.
5. The jury, by their verdict, were sure, that you knew that you had such indecent images of children in your possession. They found you not guilty of the more serious offence of making indecent images of children no doubt because they concluded they could not be sure that you actively searched for and sought to download indecent images of children,

but the fact remains that you possessed large amounts of indecent images of children, and such images had been downloaded over several years, and you knew that you possessed such indecent images of children.

6. You also knew, I am satisfied, the source of such material. As you were to tell the jury (and as is evidenced by the vast amount of legal adult pornography on your digital devices) you had, for many years, been addicted to viewing legal adult pornography. You had sought such material from a variety of sources, including BitTorrent sites and using file sharing software. Whilst searching for adult material using particular file sharing software, indecent images of children were downloaded onto your devices. On the basis that this was unbeknownst to you, you nevertheless became aware (on the jury's verdict), subsequent to the indecent images being downloaded, of this material consisting of indecent images of children being on your digital devices. Like the jury I too am sure that that is the position on the evidence that was before the jury – it defies belief that you were not, given the sheer volume and nature of such illegal imagery. There is nothing to suggest that you ceased the activity which had resulted in such images coming into your possession, and in consequence further indecent images of children would have come into your possession amidst further downloads of adult legal pornography.
7. So it was that as at the date of your arrest on 15 October 2018, you were found to be in possession of 285 Category A images (7 still and 278 moving images), 99 Category B images (2 still and 97 moving images) and 448 Category C images (391 still and 57 moving images). Given the sheer volume of pornographic material on your digital devices, both legal and illegal, it is perhaps unsurprising that you were found not guilty on the single counts of possessing a prohibited image and an extreme image – those images no doubt being present, unbeknownst to you, on your digital devices, but lost within the morass of pornographic material both legal and illegal, and of which you were aware.
8. Thankfully the grading system that is in place obviates the need for the jury or the Court to view such vile images, and it is unnecessary to describe such images in sentencing you in circumstances where I (and the jury) had a descriptive schedule in relation to representative images and videos. Suffice it to say that the illegal images included children involved in penetrative sexual activity (Category A), and included images involving children as young as 2 or 3 years of age.
9. You have only yourself to blame for the disgrace and shame that has befallen you as a man of 76 years of age with a long and distinguished career behind you as a BBC producer, and previous positive good character. I have no doubt that your offending has also been deeply distressing to your family (as recounted in the pre sentence report), including your two adult daughters who you yourself brought up from a young age. It is an unedifying feature of the case that you undertook your searches for adult pornography when you had taken your children to school, or put them to bed in the evening as you were to tell the jury. Your reputation is in tatters, and you have faced the ignominy of revealing your addiction to adult pornography to the jury and to the public at large.

10. I have no doubt whatsoever, as reflected in the pre-sentence report, that you are remorseful for your conduct, albeit that to this day you cannot bring yourself to accept knowledge of such illegal images, and to your credit you have sought counselling with a therapist to help you overcome your addiction to legal adult hard core pornography, and have not viewed any pornography since. The Sexual Harm Prevention Order (“SOPO”) that I intend to impose will in any event protect society and prevent any repetition of your offending. As a consequence of your conviction, you will be subject to notification requirements to the police, and you will or may be barred from particular regulated activities.
11. The maximum sentence for possession of indecent images of children, contrary to section 160 of the Criminal Justice Act 1988 is 5 years’ imprisonment. Under the Sentencing Council’s Sexual Offences Guidelines, the starting point in respect of Category A images is 1 year’s custody (with a range of 26 weeks’ to 3 years’ custody), in respect of Category B images is 26 weeks’ custody (with a range of a high level community order to 18 months’ custody), and in respect of Category C images is a high level community order (with a range of medium level community order to 26 weeks’ custody).
12. It is common ground that there are a number of aggravating factors in relation to your offending, namely the age and vulnerability of the children depicted (including children as young as 2-3 years old), the period over which the images were possessed (forensic evidence shows that your activities have spanned several years), the high volume of images possessed as already identified, the fact that the images include moving images totalling 104 hours (94 hours on RA/06 the device found in your dressing gown; 10 hours on the other devices), and the large number of different child victims. I am satisfied that such aggravating factors justify a substantial upward increase from the starting point for Category A of one year’s custody, before downward adjustment for your available mitigation.
13. So far as mitigation is concerned, I have taken into account everything said on your behalf by Counsel and in the Pre-Sentence Report. I also bear in mind the circumstances of your offending as already addressed above including the circumstances in which you came to be in possession of the images and the fact that the vast majority of the pornography found on your digital devices was legal adult pornography. In terms of mitigation, such mitigation extends not only to your lack of previous convictions but also your previous positive good character, and the fact that you have expressed genuine remorse, and also have taken steps to address your addiction. I also bear in mind your ill-health, the medical evidence before me and your sleep apnoea.
14. Having given careful consideration to the aggravating and mitigating features of your offending in relation to possession of indecent images of children, I am satisfied that the appropriate sentence is one of 20 months’ custody. I address below the question as to whether that sentence should be one of immediate imprisonment or whether it is appropriate that a suspended sentence order should be made.

15. Turning to your firearms offending, the maximum sentence of possession of a prohibited weapon contrary to section 5(1)(b) of the Firearms Act 1968 is 10 years' imprisonment in relation to each of the four offences (section 51 and Schedule 6 Firearms Act 1968). There are Sentencing Council Guidelines for Firearms Offences effective 1 January 2021 to which I have had regard.
16. It is common ground that the weapons are Category 3 the only issue being as to whether it is medium culpability 3B (offender intends the firearm to be used or is reckless as to whether it would be used) or lower culpability 3C (no use or intention to use), it being common ground that harm is category 3. Under the Guidelines category 3 medium culpability (B) has a starting point of a medium level community order with a range of Band C fine to a high level community order, whilst category 3 lower culpability (C) has a starting point of a Band C fine and a range of discharge to a low level community order.
17. In the present case I am not sentencing for one firearms offence but four separate firearms offences in respect of 4 separate prohibited weapons the evidence from interview being that they were acquired at different times and kept at different places. This may justify consecutive sentences, but I consider a more appropriate approach is to sentence on the basis of the totality of the firearms offending with the sentence imposed on one of the counts to represent the totality of the firearms offending with concurrent sentences passed on the other firearms counts.
18. Three of the prohibited weapons are taser/stun gun type weapons. In *R v Kirkby* [2009] EWCA Crim 14; [2009] 2 Cr. App. R. (S) 49 it was stated that whilst possession of a stun gun contrary to section 5(1)(b) of the Firearms Act 1968 may usually merit a custodial sentence the court has observed that such a sentence is not, depending on the circumstances, inevitable (at [7]).
19. In contrast to the particular facts of that case, in the present case it is, I am satisfied, rightly common ground that the custody threshold has been passed in the context of the fact that sentencing is in respect of 4 firearms offences involving 4 separate weapons acquired at different times and kept in different places. I would add that in addition to such factors, I am also satisfied that in respect of at least one of the weapons there was an intention, if need be, to deploy that weapon in self-defence in the UK and another was in the driver's door-pocket of your car (as addressed below).
20. In all the circumstances I am satisfied that the offending is so serious than neither a fine nor a community order would be appropriate and the imposition of a custodial term is appropriate. The debate as to whether any particular offence is category 3 medium culpability or category 3 lower culpability is therefore not determinative as the type of sentence to be passed although it remains of relevance to the appropriate overall sentence to be passed.

21. I consider that the best insight into this firearms offending comes from your interviews. That evidence is that the weapons (save for exhibit RTW/4 (the black taser found in your car and the subject of Count 4)) were purchased many years ago in South Africa (whether that be 30-40 years ago or 10-20 years ago) and were purchased for self-defence of you and your family, including your young daughters, whilst in South Africa (where it is said, though not proved, possession is legal). Exhibit RTW/4 was, however, purchased as recently as 2018 in South Naples, Italy, (a year before your interview) for self defence because you say the family were in a rough area and you were a bit nervous. It was, however, found in the door pocket of the front driver side of your vehicle in London where it appears to have remained since your trip. As such it was readily accessible, and in a vehicle, albeit your evidence is that it had remained there since your trip and you had forgotten it was there. As pointed out in the pre sentence report, however, the risks to the public of such a weapon being in a car, are obvious, including the risk of theft, quite apart from the risks associated with any deployment.
22. You accepted in interview that it is likely you may have tested at least certain of the devices at times (and there is also evidence before me as to their capabilities). In respect of exhibit RTW/02 (the black taser baton – Count 2), it was on open view in the corner of the bedroom, and your evidence in interview was that you were worried about burglaries (with an accessible window to the street), which is why you thought you might well keep it out for self-defence, and said that if something bad had happened you would probably have used it (in self-defence). I consider that, on any view, Count 2 is medium culpability, and I consider that the reality is that had a need arisen, and you had been in the vicinity of any of the devices, and you were aware of their presence at that time, you would have considered attempting to use them in self-defence.
23. I bear in mind all the mitigation offered in your behalf in relation to this offending (as well as your previous good character as already addressed). Nevertheless I consider that your firearms offending (taken as a whole) is so serious that neither a fine nor a community order would be appropriate, and that the appropriate sentence at trial on count 2 on indictment T20210004 (to reflect the totality of your firearms offending) would have been one of 3 months' custody, 2 month's custody after giving you full credit for your guilty plea, consecutive to the sentence passed in relation to the unconnected offending of possession of indecent images, but concurrent to the sentence passed on counts 1, 3 and 4 on indictment T20210004 each of 2 months' custody concurrent to all other counts.
24. I have then stood back and considered totality, and whether the aggregate length of the sentences (22 months' custody) is just and proportionate. I am satisfied it is. I turn now to consider whether such sentence of imprisonment can be suspended with appropriate conditions, or whether an immediate sentence of imprisonment is required.
25. In this regard I have had careful regard to the Sentencing Council's Guideline on Imposition of Community and Custodial Sentences.

26. In this regard I consider that there a number of factors indicating that it may be appropriate to suspend the custodial sentence, namely a realistic prospect of rehabilitation and strong personal mitigation, whereas I do not consider that factors exist that indicate it would not be appropriate to suspend a custodial sentence. In this regard I do not consider that appropriate punishment can only be achieved by immediate custody, nor do I consider that you represent a risk to the public (not least in circumstances where appropriate safeguards will be in place including a SHPO that I intend to make).
27. In deciding whether it would be appropriate to suspend the custodial sentence I consider that the following factors are of particular importance. You are 76 years old and of poor health, due to a heart condition that required your admittance to hospital for an operation, and you had a heart attack, and in intensive care for a period. This resulted in you being in hospital for three weeks, eight days of which were spent in intensive care. You are presently taking six different types of medication. In addition to your heart condition, you suffer from sleep apnoea requiring you to sleep each night with the assistance of a machine. An immediate prison sentence for someone of your age and poor health would be particularly challenging, and in this regard I also bear in mind, as I must, the impact of the Covid 19 pandemic and consequent prison conditions in the context of what would be a relatively short custodial term served within such constraints.
28. I also bear in mind that as a consequence of your arrest and the proceedings there has been a considerable impact upon you and your personal life, and you will have to live with the disgrace and ignominy that you have brought upon yourself. I also bear well in mind all that is said about you in the insightful and helpful pre sentence report that is before me, and which I have taken into account in the sentence which I intend to pass. It is also to your credit that you have voluntarily obtained therapy for your addiction, and I have evidence in that regard, and I am told that you have not viewed pornography since your arrest. Finally I bear in mind that there has been a considerable delay in proceedings, in circumstances where you were first arrested on 15 October 2018.
29. Taking into account all the circumstances of your offending, in my opinion, your offending is so serious that neither a fine alone nor a community sentence can be justified for it. I am therefore going to pass a sentence of imprisonment. This will be the shortest which in my opinion matches the seriousness of your offending and takes into account the mitigating factors in your case that I have identified.
30. The sentence in respect of the offence of possession of indecent images of children is 20 months' imprisonment, and that on count 2 on indictment T20210004 is 2 month's imprisonment consecutive to the sentence in relation to possession of indecent images, but concurrent to the sentence on counts 1, 3 and 4 on indictment T20210004 each of 2 months' imprisonment concurrent to all other counts, a total sentence of 22 months' imprisonment.
31. In the circumstances that I have identified above, I am satisfied that it is appropriate to suspend such sentence of imprisonment. Accordingly I make a suspended sentence

order of two years' duration, with a total custodial term of 22 months comprised as identified above, which will be suspended for two years.

32. If in the next two years you commit any offence, anywhere in the United Kingdom, and whether or not it is of the same type as any of the offences for which I am sentencing you today, you will be brought back to court and it is likely that this sentence will be brought into operation, either in full or in part.
33. Also, for the next 12 months you will be subject to a Rehabilitation Activity Requirement ("RAR") of up to 40 days. Within the framework of that RAR you will work with a probation officer on a 1-1 basis and undertake structured work from the Maps4Change manual to address your sexual offending. The working relationship will also aim to explore thinking and attitudes underpinning your firearms convictions. You must meet with the officer supervising this requirement as and when required and you must attend and co-operate fully with any activities that are arranged. If you fail to comply with this requirement you will be in breach of this order, which means that you will be brought back to court and you will be liable to serve the sentence, either in full or in part.
34. I am also satisfied that it is necessary and proportionate to make a Sexual Harm Prevention Order under section 345 of the Sentencing Act 2020 in the terms sought, and for a period of 10 years, for the purpose of protecting the public and children from sexual harm from you, and I make such an order.
35. I order the forfeiture and deferred destruction of the following devices (being either those which downloaded or stored the Indecent Images Of Children):
  - i. Silver My Passport Ultra Hard Drive (RA/06).
  - ii. A Seagate hard drive (RA/01)
  - iii. A MacBook (RTW/01)
  - iv. An external hard drive (SGJ/03)
  - v. A grey AppleMacbook (SJG/01).
  - vi. A MacPro Desktop (BH/1).
  - vii. A G drive (SKC/01).
36. I further order the forfeiture and destruction of the prohibited weapons seized.
37. As already noted, as a consequence of your conviction for possession of indecent images of children you will be subject to notification requirements to the police, and you will or may be barred from particular regulated activities.
38. There is also an application for prosecution costs in relation to which it is agreed I will hear separate argument.
39. The victim surcharge is imposed in the appropriate sum.