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IN THE CROWN COURT AT SNARESBROOK

T20130568
75 Hollybush Hill
Snaresbrook
London
E11 1QW

Monday, 5 August 2013

Before:

HIS HONOUR JUDGE PETERS

R E G I N A

-v-

NEIL WILSON

**MR R COLOVER appeared on behalf of the Prosecution.
MISS R BLAIN appeared on behalf of the Defendant.**

PROCEEDINGS RE SENTENCING

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(Official Shorthand Writers to the Court)

A

Monday, 5th August 2013

PROCEEDINGS

B

THE CLERK OF THE COURT: The case of Neil Wilson for sentence. Are you Neil Wilson?

THE DEFENDANT: Yes.

C

MR COLOVER: May it please your Honour, I appear on behalf of the Crown. My learned friend Miss Blain appears on behalf of this defendant. He appeared in front of, as I understand it, in front of His Honour Judge Kennedy on an earlier occasion when a plea to Count 1 of not guilty was entered. That is to be left on the file today.

D

JUDGE PETERS: Yes.

E

MR COLOVER: Count 2: there was a plea of guilty.

JUDGE PETERS: Yes.

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MR COLOVER: Count 3 has not been put yet. I would like to particularise Count 3, if I may, with your Honour's consent.

JUDGE PETERS: Count?

MR COLOVER: Count 3 which is the making indecent ---

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JUDGE PETERS: Was Count 4 put? Neither was Count 4?

MR COLOVER: I will come on to Count 4.

JUDGE PETERS: Count 3, carry on.

H

MR COLOVER: Count 3: can I invite your Honour to add these are eight photographs at levels 1 to 3. My learned friend knows there were 2 at level 1, two at

A

level 2 and four at level 3.

JUDGE PETERS: What is the level 3s all about?

MR COLOVER: I am trying to do so ---

B

JUDGE PETERS: In due course. All right. In due course.

MR COLOVER: Then Count 4 there are in fact again if I can particularise that as 11 images of pornographic, extreme pornographic images.

C

JUDGE PETERS: All right.

MR COLOVER: And again if your Honour adds those words then counts 3 and 4 can be put.

D

JUDGE PETERS: Yes. All right. Thank you for that. So he needs to be arraigned now on 3 and 4.

THE CLERK OF THE COURT: Your Honour, if you have marked the indictment with the wording and I can follow yours.

E

JUDGE PETERS: In terms of the wording, it is made -- is it made indecent photographs?

F

MR COLOVER: Yes, your Honour, I am so sorry.

JUDGE PETERS: It is indecent photographs. Do you wish to include the 2 plus 2 plus 4 within the particulars?

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MR COLOVER: Yes. That is probably the right thing to do.

JUDGE PETERS: Two of level 1.

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MR COLOVER: Two of level 1, two of level 2.

JUDGE PETERS: Two of level 2.

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MR COLOVER: And four of level 3.

B

JUDGE PETERS: Four of level 3 and in Count 4 we add in, where are we? Possessed 11 extreme pornographic images.

MR COLOVER: Yes.

C

JUDGE PETERS: Thank you. I think that is clear. Instead of "made", two, sorry, made indecent photographs of a child, two of level 1, two of level 2 and then this is 11. Made 11 extreme, possessed 11. Yes, thanks.

D

THE CLERK OF THE COURT: Would you stand, please? Neil Wilson, you stand charged on this indictment containing four counts. On Count 3 you stand charged with making indecent photographs of a child. The particulars of the offence are that between the 16th March 2012 and 23rd March 2012 you made indecent photographs of a child, two of level 1, two of level 2 and four of level 3. To Count 3 do you plead guilty or not guilty?

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THE DEFENDANT: Guilty, ma'am.

F

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THE CLERK OF THE COURT: On Count 4 you stand charged with possessing an extreme pornographic image and the particulars of the offence are that between 16th March 2012 and 23rd March 2012 you possessed 11 extreme pornographic images which were grossly offensive, disgusting or otherwise of an obscene character or portrayed in an explicit and realistic way a person

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performing an act of intercourse or oral sex with an animal. To Count 4 do you plead guilty or not guilty?

THE DEFENDANT: Guilty, ma'am.

B

THE CLERK OF THE COURT: Guilty. Thank you. Please sit down.

C

JUDGE PETERS: The report that was prepared appreciated that there were images, the details of course were not known to the Probation Services. Have I summarised correctly?

D

UNKNOWN FEMALE SPEAKER: That is correct, your Honour. There is an additional difficulty in this case in that there is a second indictment, transferred from York Crown Court which also deals with images to which this defendant has pleaded guilty.

E

JUDGE PETERS: Is that before us today?

F

MR COLOVER: It is, your Honour. I have to say: at the moment I do not possess any papers at all of the transfer.

G

JUDGE PETERS: There is the -- here we are. These relate to October 2013 -- 2012 -- and he pleaded guilty on 5th July. Is that right?

H

UNKNOWN FEMALE SPEAKER: That is right, your Honour, yes.

JUDGE PETERS: Now, they are all animals are they?

UNKNOWN FEMALE SPEAKER: They are. They are all extreme pornography, your Honour, as opposed to

A

indecent images of children.

JUDGE PETERS: Just a moment. Are you briefed in this?

B

MR COLOVER: Well, to the extent that I represent the Crown, your Honour, but I do not have papers in respect of that.

JUDGE PETERS: I now do. You now do.

C

MR COLOVER: As far as I can see and what I can gather ---

JUDGE PETERS: It speaks for itself.

D

MR COLOVER: It seems an identical set of (inaudible) of bestiality, discovered on a computer at an address that he has access to in York.

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MISS BLAIN: I think the only difficulty, your Honour, is that again the papers in the York case do not particularise the level or the number or certainly the copy papers I have do not.

F

JUDGE PETERS: But when you are dealing with extreme pornographic images.

MISS BLAIN: As far as I am aware, your Honour, yes. Unfortunately, counsel who dealt with that case (inaudible).

G

JUDGE PETERS: They are all possession of extreme pornographic images.

H

MISS BLAIN: There will not be any levels. Quantity perhaps.

JUDGE PETERS: Sorry?

A

MISS BLAIN: It is simply quantity and ---

JUDGE PETERS: I think they are.

B

MR COLOVER: I think they are all deemed to be level 4
and 5.

C

JUDGE PETERS: Yes. I have not got any Sentencing
Guidelines in relation to the new offences. Are there
any guidelines? Where is it deemed to be 4 and 5?
Where does it say they are deemed to be 4 and 5?

MR COLOVER: Certainly, in terms of other cases.

D

JUDGE PETERS: I have got in front of me the guidelines
for indecent photographs of children but ---

E

UNKNOWN FEMALE SPEAKER: I think that is the
difficulty, your Honour. There is an assumption
because there is some similarities between the wording
of extreme pornography legislation and that dealing
with indecent images, but of course there is
a distinction between extreme pornography and that it
does not involve children.

F

JUDGE PETERS: Well, of course.

MR COLOVER: Your Honour, they are just described as
"five videos".

G

JUDGE PETERS: But it is an offence of having
possession. That is it.

MR COLOVER: Yes.

H

JUDGE PETERS: What the Act does, which is to
effectively outlaw the possession of extreme

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pornographic images, but of course it is still, there is still an issue if a defendant was to plead not guilty as to whether it was grossly offensive, disgusting or otherwise of an obscene nature. The difference between this legislation and The Obscene Publications Act is of course under the Obscene Publications Act the prosecution would have to prove or you would have to be guilty that the material depraved and corrupted the likely person who is seeing it. An obscene publications requires again aimed at those selling it rather than those viewing it. This legislation, as indeed the legislation that deals with children, outlaws possession, pure and simply. It still has to be grossly offensive, but it goes without saying that, and you have pleaded guilty to it, it goes without saying that those who engage in sex with animals fall within the legislation, obviously. Yes. All right.

B

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Let me hear the Opening and then we will take it from there.

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MR COLOVER: Thank you very much.

Your Honour, this concerns this defendant and his activities involving a 13 year old girl. If I give the name then your Honour ought to make an order in respect of ---

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JUDGE PETERS: Yes. There will be a prohibition of

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publication of section 39 of the CYPA.

MR COLOVER: Her name is [redacted for legal reasons].

JUDGE PETERS: There is a gentleman from the Press here. So no publication as usual in relation to the girl. Yes. Please. So a 13 year old girl.

MR COLOVER: On 6th March 2012, which is the date in respect of the first count which has been left on the file.

JUDGE PETERS: Yes.

MR COLOVER: She left school early, bunked off school. She was in Romford town centre. She was interviewed and gave a very lengthy ABE which lasted for 50 minutes. She said that she was by the subway. She was asking members of the public for cigarettes. She asked a man who stated that he did not smoke and then he returned and say "I will buy you some". They went to a shop.

She says that he gave her a packet of cigarettes and then said, "I am going home for some coffee, do you want to come." She went with him to his address in Romford, went to the flat and there there was, it is fair to say, she has made but is not a complainant in this case and has not co-operated apart from taking part of the ABE video that she described in graphic detail what was said to have happened then.

JUDGE PETERS: That is ---

A

MR COLOVER: That has been left on the file.

JUDGE PETERS: All right.

B

MR COLOVER: I only say that by way of background because I will come on to what he says both in summary and in interview, but the upshot was that she left.

C

JUDGE PETERS: Can I just pause there and ask you. Your instructions should be able to assist, is the officer here by the way?

MR COLOVER: Yes, your Honour.

D

JUDGE PETERS: Are we talking about a 13 looking 13, looking 16, looking 10?

E

MR COLOVER: Your Honour, she said to him according to the police interview she told him initially that she was 16 and then she said, "I am nearly 16".

JUDGE PETERS: Yes. The real question is, in the officer's opinion, what does she look like?

F

THE OFFICER: Your Honour, I would say 14, 15. In my experience of ---

JUDGE PETERS: That is when you saw her.

THE OFFICER: 14, 15 years of age.

G

JUDGE PETERS: Did she, again, it does not in any way seek to lessen the position in this case, but does she speak like a 14, 15 year old or a 12 year old or an 18 year old? It is very important.

H

THE OFFICER: I would say she speaks like a 14, 15 year old.

A

JUDGE PETERS: And she is 13?

THE OFFICER: Yes.

THE JUDGE: All right. Thank you.

B

MR COLOVER: She certainly appears on the face of it to behave as somebody who is very much more sexually experienced; that we can confirm, both from what he says and what she says.

C

She left on the first afternoon that they met. There was apparently contact through telephones, texts and other matters. Ultimately, on 20th March she went to his home address and that relates to the count that you have.

D

JUDGE PETERS: When you say she went to his home address, was there communication between them?

E

MR COLOVER: There had been communication, yes.

JUDGE PETERS: Setting it up.

MR COLOVER: They agreed to meet, and he texted back.

F

JUDGE PETERS: I am sorry to keep interrupting but when you say "agreed to meet", this is very much a 50-50 consensual meeting?

G

MR COLOVER: Yes, your Honour. Very much so, and she is undoubtedly it is fair to say very sexually experienced, and one hesitates to use the word, but it is a word that has been used in other cases, I think the officer would agree that she may well be what is described as predatory in respect of her activities.

H

A

JUDGE PETERS: Yes. Well, as I say, I need to know all these things. She said she was nearly 16.

MR COLOVER: Yes, your Honour.

B

JUDGE PETERS: Whatever that means.

MR COLOVER: Initially she said that she was 16 and then she said, "I am nearly 16". I was 16 a couple of months ago. I am nearly 16.

C

JUDGE PETERS: All right. Thank you.

MR COLOVER: Then there was according to her again sexual activity took place. As I say, she is not a complainant. What she said was this, and this is ---

D

JUDGE PETERS: Sorry, sexual activity, we are now on to Count 2?

MR COLOVER: We are now on to Count 2.

E

JUDGE PETERS: Sexual activity takes place but she does not wish to, she did not want to be a complainant?

MR COLOVER: No, that is right. He says they sat in the lounge. She had arrived in school uniform. They sat in the lounge. They talked about their relationship. He told her there was no relationship,

F

this could not go on as he would get into trouble. He asked her to leave, but she asked if she could change out of her school uniform. He left the room and returned a short time later to find her sitting on the settee with just a t-shirt on and no other clothing.

G

He sat on the floor and told her to put her clothes

H

A

back on. She came round to where he was sitting and began kissing and touching him. He told her to go away. She sat astride him facing him, undid

B

his trousers, took his penis out. She began to masturbate him. He was angry and said, "leave me alone". She then turned around, still astride him with

C

her back to him. She lowered herself on to his back. He believes his penis may have touched her vagina or near to that area. He pushed her away and she was upset. After further conversation about him not

D

wanting to see her any more she got dressed and left. He has said at no time did he have penetrative sex with her. Again, in terms of the Sentencing Guidelines

E

there is contact between his naked genitalia and her naked genitalia, within the section (inaudible) falling short of penetrative sexual relationships.

JUDGE PETERS: I am looking at page 40 of the ---

F

MR COLOVER: Your Honour, the starting point in ranges is said to be 2 years in one to four.

JUDGE PETERS: I am looking at the same box.

G

MR COLOVER: Yes. It would seem to be the third of the four possible boxes going up the scale. That is the ---

JUDGE PETERS: Just a moment.

H

MR COLOVER: The guideline area. The position was this that ultimately her activities came to the attention of

A

the authorities.

JUDGE PETERS: How?

B

MR COLOVER: She spoke to a friend, the friend spoke to somebody else and there was an investigation I think. She was concerned that she had been caught bunking off school. It came not through her ---

C

JUDGE PETERS: No, no. She never complained. Is it that her phone was then analysed that he comes out of it?

MR COLOVER: Will your Honour forgive me?

D

JUDGE PETERS: Yes.

MR COLOVER: Yes. I understand ultimately she identified an address to the authorities who went to go and see him and there they found the computer that had the other images on it.

E

JUDGE PETERS: Yes. Now tell me about that.

MR COLOVER: Yes.

F

JUDGE PETERS: Count 3.

MR COLOVER: The computer was examined in respect of the most serious ones that we ---

JUDGE PETERS: Let us deal with Count 3.

G

MR COLOVER: I am sorry, my Lord.

JUDGE PETERS: Count 3 are the ---

H

MR COLOVER: Count 3 is these images. The counts, I do not know whether your Honour has a statement from Mr Paul Andrews? That may have been served late.

A

JUDGE PETERS: As you know: I have come into this case very, just now. You were due elsewhere.

MR COLOVER: Yes.

B

JUDGE PETERS: There are two statements.

MR COLOVER: There is a statement 5 of 13 dated 3rd June.

C

JUDGE PETERS: Got this.

MR COLOVER: There are two starting at page 5 where the level 1s are ---

JUDGE PETERS: Naked girls, younger children.

D

MR COLOVER: Prepubescent child. Turning over the page, at page 6, level 1s.

JUDGE PETERS: These are photographs that have found their way on to the computer?

E

MR COLOVER: And then ---

JUDGE PETERS: He is charged with "making".

MR COLOVER: Yes. Your Honour, that is on the basis that once they are downloaded.

F

JUDGE PETERS: Yes. Yes. So we are into level 3.

MR COLOVER: Level 3 is, the four level 3s are described as the first one on page 7 as a very small picture, face and naked torso of a child and an adult penis being held over a child. A very small picture showing a young female child holding an erect penis of an adult male. Number 4: this is a very small picture

H

showing a very young child of indeterminate sex holding

A

the penis of an adult male, and the same -- sorry --
the fourth one, this is a very small picture showing a
very young naked female child with her legs being held
open by an adult of indeterminate sex. Those are the
levels.

B

JUDGE PETERS: There is level 4 there?

C

MR COLOVER: Your Honour, that is level 3.

JUDGE PETERS: But he is not on any level 4s?

MR COLOVER: No, your Honour. No.

JUDGE PETERS: There is a reference to a level 4.

D

MR COLOVER: There is videos, and I have to say on the
indictment I have got those do not seem to have been
charged separately. In the general scheme of things,
your Honour, I think somebody has taken a pragmatic
view.

E

On page 9 of 13 there are graphic descriptions of the
bestiality that comprises Count 4, the 11 photographs
of women with horses and dogs, and I can only assume
that the York matters are videos of a similar nature.

F

JUDGE PETERS: Let us have a look.

G

MR COLOVER: They are described as, in the officer's
notes.

JUDGE PETERS: There is no actual ---

H

MR COLOVER: Described as "extreme pornographic videos,
5 videos of bestiality, penetrative sexual acts between
humans and animals.

A

JUDGE PETERS: I assume they are of the same kind unless I am told otherwise. These are videos that have been downloaded into the hard drive?

B

MR COLOVER: Into the hard drives, your Honour, yes.

JUDGE PETERS: And you say that I have to deal with them as a level 4 or 5? Is that right?

C

MR COLOVER: As I recollect from (inaudible) dealing with a number of (inaudible) look at one of these in respect of other matters elsewhere.

JUDGE PETERS: Yes.

D

MR COLOVER: And my recollection is that they were to be dealt with as though they were level 4. I am not sure if that is correct.

E

JUDGE PETERS: I am just re-reading the report while you are finding that.

MR COLOVER: Thank you.

F

JUDGE PETERS: Yes. Can you help me with that? Where in Archbold?

MR COLOVER: Chapter 31.

JUDGE PETERS: Are you in the supplement?

G

MR COLOVER: Yes. I was looking at it to see if there was a reference to it. It may be in the main volume.

JUDGE PETERS: Let us have a look. Sorry, you say 31?

MR COLOVER: Chapter 31, your Honour.

H

JUDGE PETERS: Where in 31?

MR COLOVER: 31-120. Section 63.

A

JUDGE PETERS: Penalties. It cannot. I am looking at this. 3 years. Is it not exceeding 3?

MISS BLAIN: It is, your Honour.

B

JUDGE PETERS: If it is not exceeding 3 how can it be level 4 or 5?

MISS BLAIN: The only example in Banks does not make any reference ---

C

JUDGE PETERS: Mr Colover, it cannot be 4 or 5 if 3 is the maximum.

MR COLOVER: Yes, I am sorry, your Honour.

D

JUDGE PETERS: It cannot be because it is 10 for 4 and 5 maximum, and a possession offence is 5 anyway.

MISS BLAIN: Yes, and in terms of extreme pornography, your Honour, it can be 2 years maximum depending on which section of the legislation applies.

E

JUDGE PETERS: We are on -- can I have the indictment back? Thanks. He is charged with 63(1).

F

MR COLOVER: 63(7), yes, it is 3 years. It is section, I am sorry, your Honour, it is 31-124, so if it is under 63(1) it is 3 years. Any acts within section 63(7), which is the one that relates to the violence or injury.

G

JUDGE PETERS: Ah.

MR COLOVER: Although, no, I am sorry.

H

JUDGE PETERS: No, it is not right.

MR COLOVER: No because it does include section 6 and

A

63(7)(d) is quite clearly set out in the wording of the indictment so in fact the sentence is ---

B

JUDGE PETERS: I am going to put this back to 2 o'clock for you to ---

C

MR COLOVER: Your Honour, it looks like it is 2 years then. Your Honour, I can see that, on section 67(3)(d).

JUDGE PETERS: Well, just a moment.

MR COLOVER: It does ---

D

JUDGE PETERS: Just a moment. (Talking to the Clerk of the Court re another case). Yes, sorry.

MR COLOVER: I am so sorry, your Honour. The maximum sentence for this allegation under section 63(1) is 3 years.

E

JUDGE PETERS: You do agree, Miss Blain?

MR COLOVER: The wording is that if it is under a section which does not portray any act within 67(3), well, this is an act.

F

THE CLERK OF THE COURT: They are ready, your Honour.

JUDGE PETERS: Bear with we. Just bring them here, counsel and the officer. 2 or 3?

G

MR COLOVER: It is 2, your Honour.

JUDGE PETERS: It is 2 years.

MR COLOVER: It is 2 years because subsection 67(3) relates to 63(7)(a) or (b) and it is ---

H

JUDGE PETERS: Anyway, it is going back to 2 o'clock

A

because you are not going to be ready. I want to hear mitigation unless there is an application for further adjournments, but before you say any more, can I just ask in the next case (Talking to counsel in another case).

B

MR COLOVER: It is 2 years. It is 2 years in respect of ---

C

JUDGE PETERS: Yes. Anything else you need to tell me at this stage?

D

MR COLOVER: Your Honour, does your Honour have his antecedents?

JUDGE PETERS: I have seen his antecedents. They are effectively ---

E

MR COLOVER: There is two matters.

JUDGE PETERS: Nothing to worry about.

MR COLOVER: No, your Honour.

F

JUDGE PETERS: There is nothing to worry about in terms of antecedents.

MR COLOVER: There is an application for a Sexual Offences Prevention Order.

G

JUDGE PETERS: Have you got the terms of it?

THE CLERK OF THE COURT: Handwritten and I have typed it in.

H

JUDGE PETERS: Not to delete his computer history, not to work with children whether paid or voluntary, not to contact a child (inaudible), well, he goes on the

A

register anyway.

B

MR COLOVER: He does, your Honour. That is the advice of the officer who has taken advice from the local team.

C

JUDGE PETERS: That is probably the least of defence counsel's concerns at the moment. All right. Just in outline, yes, thank you very much, what do you tell me at this stage? Are we ready to proceed? The only point is that the report does not perhaps have or the officer in charge of the report does not really address the pornographic side.

D

E

MISS BLAIN: She does not, your Honour, but in view of the conclusions that she reaches in terms of I suppose what one could deem the more serious count, it may be that your Honour is able to deal with this matter. It is a relatively comprehensive report.

F

JUDGE PETERS: It is. I mean, Count 3 is, they are, there are some level 3 there are there not?

G

MISS BLAIN: There are, your Honour, yes. I would certainly advance that the attitudes that are identified by the author of the report more than likely relate to those images as well in that the way that she proposes that they can be dealt with, ie Sex Offenders Treatment Programme, is undoubtedly suitable in terms of those images.

H

JUDGE PETERS: I know exactly what you are going to say

A

about the 13 year old girl in this case.

MISS BLAIN: Yes.

B

JUDGE PETERS: Much of it has been said by the prosecution.

C

MISS BLAIN: Your Honour hit the nail on the head, as it were, when asked if it was by reference to the mobile phone that he was arrested. Quite to the contrary. They came to his house. He made extremely

D

lengthy admissions that your Honour has seen. He makes admissions in relation to the offences in York as the extreme pornography and when asked about the indecent images he says: "I access a large quantity of adult material. Occasionally there is (inaudible) material.

E

I hold my hands up. I have either looked through a thumbnail index or I have downloaded and viewed it."

F

That would seem to be true because when one looks at the expert report those images are no longer accessible

G

by ordinary people, as it were, and that would tend to suggest that either they were being downloaded and to use it as the defendant says or they were seen only on a brief thumbnail as the defendant says. Of course, if

they were downloaded and stored they would still be there. That would tend to apply some credence to what the defendant said.

H

JUDGE PETERS: He clearly needs treatment because anyone who, for whatever reason, finds themselves

A

looking at that sort of material of the young children with men, and animals with women, I mean, it goes without saying.

B

MISS BLAIN: Yes. The point about the Sex Offender Treatment Programme, your Honour, is that a court order

C

is in fact the only way that one can ensure that that is undertaken. If the defendant is sent to immediate custody he is placed upon a waiting list. There is no

D

way of knowing if a place will become available while he is serving his term. In any event, his release is not conditional upon completion of that court as

E

opposed to a court order, which of course he must complete it to discharge his obligations or be placed in immediate custody. If your Honour shares the view

F

of the author of the report that treatment is what is needed, the only way to ensure that is undertaken is by attaching a court order. Custody might finish him. He

G

is a disabled man. He will be placed on the hospital wing. I dare say although deprivation of his liberty is seen as an infringement it will not ameliorate the

(inaudible) identified either by your Honour or the author of the report.

JUDGE PETERS: Yes.

H

MISS BLAIN: Your Honour may also derive some comfort from those matters that have been identified that whatever the views of the author of that report she was

A

perhaps absent the material about the complainant as she perhaps did not appreciate that there was (inaudible) on both sides and notwithstanding this

B

offence the defendant retains the support of his friends and his family, his partner of some years and they all appear here for him today. He will be further

C

supported albeit perhaps supported by notification of (inaudible) sexual offences prevention order and safeguarding vulnerable (inaudible) which will automatically enter him on to a register to protect

D

others. A significant part of the Pre-Sentence Report is that although he is assessed as some risk the author is very careful to say that it is not an imminent risk.

E

Again, that may have caused (inaudible) his treatment and that treatment can best be administered in (inaudible).

F

JUDGE PETERS: Yes. You have persuaded me to deal with this now in the way you suggest. Yes. You are there. You are there. Do you wish to say anything about the prevention order?

G

THE PROBATION OFFICER: There is an error in the Pre-Sentence Report proposal, your Honour. They have asked for a 3 year suspended sentence.

H

JUDGE PETERS: 2 years.
THE PROBATION OFFICER: I spoke to York probation because a sex offender programme takes 3 years and they

A

couldn't guarantee to complete it within 2 years and so I would need to ask for a community order with 3 years supervision in the programme.

B

JUDGE PETERS: A suspended sentence order which is obviously 2 years. I was going to ask you this, but I was going say 2 years supervision, so we are talking about 3 years supervision.

C

THE PROBATION OFFICER: That cannot be attached to a suspended sentence order.

D

JUDGE PETERS: No, but I am still going to impose that. Because it is, because they are stand alone orders though. It is no longer necessary as part of a suspended sentence to give a community order I take the view that I can impose that as a separate order.

E

THE PROBATION OFFICER: I am not sure how you achieve that.

F

JUDGE PETERS: If I pass a prison sentence suspended for 2 years in addition there will be a community sentence, a supervision order of 3 years involving the sex offending programme.

G

THE PROBATION OFFICER: That would be as part of a community order.

JUDGE PETERS: Not a community order. A supervision order of 3 years.

H

THE PROBATION OFFICER: Supervision is attached to a community order.

A

JUDGE PETERS: Yes, as part of a community order, but it is no longer, I do not have to make any specific orders when I pass a suspended sentence. That has gone.

B

THE PROBATION OFFICER: Yes, your Honour.

C

JUDGE PETERS: I am passing two quite separate regimes now. One is a prison sentence suspended within the terms of that, and then in addition I am imposing a community order whereby he will be under supervision to complete his sex offending programme.

D

THE PROBATION OFFICER: Are you minded to impose then different sentences for different offences, your Honour?

E

JUDGE PETERS: Yes. Ah. That is the way to deal with it. Thank you for your help. That is the way to deal with it. I will impose a sex offending programme under a supervision order for one group of offences and I will give him a suspended sentence for the sexual activity offences. That is the way to deal with it. Excellent. We are there. Thank you very much. Let me just amend that. Thank you.

F

G

Any observations?

MISS BLAIN: Your Honour, the sexual offences prevention order is as basic as it can be.

H

JUDGE PETERS: Well, his computer, it is perfectly usual to impose limits on people's computer use. It is

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not preventing him going online. It is just preventing him, if a policeman was so minded to knock on his door and inspect his computer, that is all it is. That is a very normal order.

B

MISS BLAIN: It is, your Honour.

C

JUDGE PETERS: As far as the under 16s, well, that only goes, really that is no more or less the registration requirement.

MISS BLAIN: Also (inaudible). Simply bolsters what would already be in place.

D

JUDGE PETERS: Very well. Thank you.

E

Neil Wilson, you come as close as going to prison as you know imaginable because prevalent today are people who get involved in sexual activity with people who are too young and that is what you have done.

F

I take into account in relation to Count 2 on this indictment that the girl herself, only 13, the prosecution accept looked and behaved a little bit older, but you knew when she said to you that she was 16 or near 16 was not that age. There is no doubt, and

G

your plea of guilty recognises that you knew that she was not 16 years of age. So allowing her to visit you at your home is something which the courts have to clamp down on, and in normal circumstances involves

H

a term of significant imprisonment. These are prevalent offences and young girls need the protection

A

of the courts by such sentences.

B

On these facts, the girl involved, I am told, to use the expression was "predatory" and was seriously egging you on. That, of course, is no defence when dealing with children, but in all the circumstances I am prepared to impose upon you a prison sentence

C

suspended. Giving you a discount for pleading guilty, the sentence is reduced to 8 months imprisonment from 12 months and that will be suspended for 2 years. That means that if you commit any further offence in the next 2 years in addition to anything you commit the 8 months will be added on.

D

That deals with Count 2.

E

When you were arrested, and I appreciate you co-operated with the authorities, you were found in possession of a significant but not huge amount of material. At this court, Count 3, you were found in possession of two of level 1, two of level 2 and four of level 3, indecent images of a child. I am told that these had been, you attempted to delete them, but as you know they do not get deleted.

F

G

Anyone who seeks, for whatever reason, gratification or the use of such photographs again faces a term of imprisonment. They, in your case, stop at level 3

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which is bad of itself. Young children with adult men in sexual poses. Anyone who seeks gratification from

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that needs treatment and that is the order that I am going to pass upon you today. I do not think given your history there is any need to send you immediately to prison for that, although, as I say, you came as near to it today as you will ever come. So I hope this is the last day you appear in court.

B

C

On Count 4, you were found in possession of extreme pornographic images, where women are behaving in a sexual way, performing in a sexual way with animals.

D

You face another indictment sent to us from York of six, five counts of the same nature. Those who seek gratification or pleasure from watching such extreme or pornographic images need treatment, and that is what

E

I am going to order against you. Again, in normal circumstances a prison sentence is appropriate, but there is no evidence that you showed any of these items to anybody else or exchanged them with anybody else or

F

published them to anybody else. Had you been involved in showing these to others, if there was any scintilla of evidence I would have sent you immediately to prison.

G

The sentence of the court on Count 3 and Count 4 and in relation to the indictment from York Crown Court, each count concurrent will be a supervision order for 3

H

years. The primary condition of that supervision order is that you attend and complete a Sex Offenders

A

Programme as directed by the, in your case, the York probation services.

B

As far as the supervision is concerned and the programme: it is crucial that you attend all the appointments that you are granted and given. Failure to attend will mean a breach of the order. Do you

C

follow? If you are ill or if there is a proper reason you contact them with a reason because if you do not and there is no proper reason I have no doubt that they will bring proceedings against you for breach of the

D

order. Clearly, being in York that can be brought before the York Magistrates' Court to start with, but if it is serious it can be brought before this court and then you can be sentenced for breach of the order.

E

In addition, you are obliged to sign the Sex Offenders Register. I need not say any more of that. Your lawyer will advise you about that, but that effectively

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provides the police with your address and any movements away from your address which protects the public or those who wish to employ people within certain industries, the right to check that register. In

G

addition, I will impose upon you a Sexual Offences Prevention Order which is imposed upon people convicted of offences involving those under 16 and those who use

H

the internet to download extreme images and those involving children. In the terms set out in the

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schedule before me which involves you not to delete your computer history or use any programme of deletion, permanent deletion, allowing police if they wish to to examine your computer and data storage device. There of course does not in any way stop you using computers, but of course it allows people to check. So if you breach this order you commit a criminal offence. Do you follow?

B

C

D

E

Similarly, you are not to work with children under the age of 16, whether paid or voluntary. Not to contact or communicate with a child under the age of 16 unless inadvertently through normal everyday life with the express permission of the public protection unit where you are managed. These are important conditions, Mr Wilson, to prevent you falling prey, foul, either you yourself contacting children or if they contact you.

F

G

I hope that this is the last time you appear before the courts. These measures are necessary in your interests, but primarily to protect the public from people like yourself who get involved or are interested in either children or unnatural sexual activity, which is the case where you pleaded guilty to possessing extreme pornographic images.

H

Are there any other matters that I need to deal with?
THE PROBATION OFFICER: What is the duration of the sexual offences prevention order.

A

JUDGE PETERS: Normally it is indefinite. Are there any other observations?

B

MISS BLAIN: Your Honour, as I understand it is an ongoing assessment.

JUDGE PETERS: Of course.

MISS BLAIN: The probation service will decide.

C

JUDGE PETERS: Can always apply.

THE PROBATION OFFICER: And the period that the defendant has to sign on the sex offenders register as well?

D

MR COLOVER: It is at page 2-115, I think, because it is over 6 months and less than 30 months it is 10 years.

E

THE CLERK OF THE COURT: And also, your Honour, victim (inaudible) on the York matter.

JUDGE PETERS: It is 80 is it not?

F

THE CLERK OF THE COURT: 100 because it is over 6 months.

JUDGE PETERS: No, I have given a community order in that matter. 80. I am obliged under law to impose a statutory penalty of £80. That I do as well.

G

MR COLOVER: Your Honour, there is a ---

JUDGE PETERS: Destruction and forfeiture of all the material, obviously.

H

MR COLOVER: I do not know whether your Honour would consider an application for costs?

A

JUDGE PETERS: No. No. Thank you.

MR COLOVER: Thank you, your Honour.

B

JUDGE PETERS: I will say 10 past 2 because we have sat for the other matter. Do not leave court without seeing the probation officer who will make sure that all your details are known to us. I am sure they are.

C

You have got an appointment next week. Later in the week. Just see the probation officer before leaving court. Friday, 9th August, but liaise with the officer before leaving court. Yes, thank you.

D

(The Luncheon Adjournment)

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We hereby certify that the above is an accurate and complete record of the proceedings, or part thereof.

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Signed: WordWave International Limited.

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