

Shane Arnold, you plead guilty to two counts of possession of child exploitation material.

On 12 February 2020 the police searched your room at a hotel in Scamander where you were employed as a chef. They found two mobile phones, a tablet and a gaming console. Subsequent analysis revealed that child exploitation material was stored on the tablet and one of the phones. In total there were 138 images and 45 videos. The material was examined and classified. All of the videos and all but three of the images were in the form of animation depicting children engaged in sexual activity. The remaining three images were sexually suggestive depictions of real children, but not of sexual activity. Nothing was found on the other two devices. Because of the time it took to examine the devices you were not charged until August 2020. You appeared in court for the first time on 13 January 2021 when you were admitted to bail.

As a result of being charged you lost your job at Scamander and became effectively homeless. Just after midnight on 19 January 2021 you were sleeping in your car parked at the Punchbowl Reserve in Launceston. You identified yourself to the police when they approached. Their internal information systems revealed intelligence that you had been in possession of child exploitation material and, when they asked you about this, you admitted it was true and that you had downloaded material that night to masturbate to. You showed your phone to the police. They arrested you and searched the car. Three other devices were seized, two other phones and a laptop. When you were interviewed at the police station you admitted that you used the internet to find and look at child exploitation material for sexual arousal, particularly when using methyamphetamine.

Those further devices were all forensically examined. Nothing was found on the laptop or on one of the phones, but the other two phones contained a total of 378 files, either photographs or images which were child exploitation material. They were categorised according to the Interpol baseline categorisation system. 104 files were category 1, depicting real children under 13 either involved in or witnessing a sexual act, or focussed on the child's anal or genital region. The remaining 274 files were category 2 which means only that they were child exploitation material of various types which are not category 1. Most were animations.

You are 52. Thirty years ago you served a term of imprisonment in NSW for burning down a school. In April 2021 you were given a short suspended sentence for summary drug and driving offences. However you have no prior convictions for sexual offending or offending related to child exploitation material. Your admissions to the police and early plea of guilty are in your favour, especially at a time when the pandemic is so disruptive to the facilitation of justice. At a time when trials are delayed, the plea of guilty carries additional weight. It is an aggravating factor that the second crime was committed while you were on bail for the first crime and only six days after your first appearance in court. It is not disputed that use of methyamphetamine is strongly linked to your offending. You began to use the drug a few years ago as a way of relieving stress at work. You did not resort to any other form of criminal activity associated with its use, but it took control of your life and it lowered your inhibitions. You claim that when not affected by methyamphetamine you were ashamed of your own behaviour, but not enough to make you delete the images you had already downloaded and from downloading more when again using the drug. There has been a substantial delay since you were apprehended. The delay results not from your fault, but because it has taken so long for the material to be analysed and categorised. The delay is relevant in that you have, in the meantime,

taken steps which demonstrate a real chance of rehabilitation. You have had these charges, and the prospect of imprisonment, hanging over your head for some time. After some months of an itinerant life you engaged with services which assisted you to obtain stable accommodation, address your use of methylamphetamine and to obtain counselling. You have not used methylamphetamine since April 2021. There has been no repetition. You are now hopeful of obtaining other full time employment and you have already engaged in some seasonal work.

The reasons that possession of child exploitation material is so serious have been stated many times. Child pornography offences put children everywhere at risk of grave sexual abuse. It is relevant that, in your case, most of the material in your possession did not involve real children. Some of the material did, and those children are real victims. All of the material had potential for harm. The only appropriate sentence is one of imprisonment. However I am persuaded by your counsel that a sentence of actual imprisonment would be a backward step and I will conditionally suspend the term as an incentive for you not to re-offend. Compared to some cases seen by this Court the amount of material in your possession was relatively modest, and, as I have already said, most did not involve real children. It was not organised or categorised. There was no chance that anyone else could have access to it and it is not alleged that you shared or distributed it. The community will be better off if you take the opportunity extended to you to avoid prison. You must however understand that if you re-offend in any serious way, prison it is highly likely.

Shane Arnold, you are convicted on each count. I order that the Samsung mobile phone and tablet seized on 12 February 2020, ZTE Blade A5 2020-T mobile phone and the Samsung SM-A205YN mobile phone seized on 19 January 2021 are forfeited to the State. I am not satisfied that you do not pose a risk of committing a reportable offence within the meaning of that term in the *Community Protection (Offender Reporting) Act 2005* in the future. On complaint 70577/20 I make an order directing that the Registrar cause your name to be placed on the Register and that you comply with the reporting obligations under the Act for a period of two years from today. On complaint 30973/21 I make the same order except for four years from today. I impose one sentence. You are sentenced to imprisonment for six months. I wholly suspend that term for two years from today. It is a condition of that order that while it is in force you do not commit any offence punishable by imprisonment. If you breach that condition then a court must order that you serve that term unless it is unjust.