

STATE OF TASMANIA v KEITH WILLIAM BLAKE
COMMENTS ON PASSING SENTENCE

7 DECEMBER 2022
JAGO J

Keith William Blake, you have pleaded guilty to one count of possessing child exploitation material, contrary to s 130C of the *Criminal Code*. Pursuant to s 385A of the *Code*, I am also dealing with one count of possess bestiality product, one count of resist a police officer and one count of obstruct the search of warrant premises.

On 11 November 2021, police executed a search warrant at your home after discovering a series of IP addresses relating to your address were detected being active on the Bit Torrent network on 15 occasions, in association with six individual Torrents that contained child exploitation material and bestiality material.

When spoken to by police, you told them you had no knowledge of any child exploitation material on the premises. That was clearly a falsity. Police proceeded to conduct examinations of devices located in a home office that had been set up in a garden shed. When you purported to assist police by retrieving a hard drive, you concealed it in your pocket and endeavoured to walk away. Police followed you into the residence and requested you return the hard drive. You refused to stop and you refused to return the hard drive. Police attempted to block you from walking away. You attempted to push past them. A scuffle ensued. You removed the hard drive from your pocket and held it in your outstretched arm away from police and again refused to hand it over. This behaviour grounds the charge of obstruct the search of warrant premises.

You were placed under arrest for obstructing the execution of the search warrant. You continued to resist the removal of the hard drive by holding onto it tightly and refusing to release your grip upon it. Eventually, police were able to remove the hard drive from you. You then resisted police by tensing your arms to prevent the application of handcuffs and continually moving your hands out of the way, including by placing them underneath you in order to prevent the application of the handcuffs. The physical resistance you offered was described as vigorous and lasted for several minutes. This behaviour grounds the charge of resisting a police officer.

The hard drive was forensically examined. That examination disclosed in excess of 1,500 child exploitation material files on the device. There were 124 category one images and 139 category one videos. Category one material depicts real children under the age of 13 years where the child is involved in a sexual act, is witnessing a sexual act or the material is focused on the child's anal or genital region. Additionally, 1,233 category two images and 30 category two videos were found. Category two material depicts, amongst other things, real children aged between approximately 13 and 18 years where the child is involved in a sexual act, is witnessing a sexual act or the material is focused on the child's anal or genital region. It also includes anime material depicting representations of children from birth to under 18 years engaged in, or implied to be engaged in, sexual activity or poses. In total then, the defendant was in possession of 1,357 images and 169 videos. The types of conduct depicted in the material included:

- Pre-pubescent females being anally raped by an adult male, using both his fingers and penis;
- A pre-pubescent female child being orally raped;
- A pre-pubescent female having her genitals and anus spread;

- A pre-pubescent female child masturbating;
- A pre-pubescent female child being vaginally raped by an adult male;
- Female and male children being raped by adults
- Explicit material depicting real children alone, naked and in a sexual context
- Early teen female children outdoors performing oral sex upon each other.
- Anime material depicting pre-pubescent characters involved in sexual acts

Also located was a two minute and twenty eight second video depicting a male dog having penetrative vaginal and oral sex with an adult human female. Possession of this video grounds the possession of bestiality product charge.

The forensic examination disclosed that you were downloading the material to which I have referred, between at least 10 August and 7 October 2021.

Following your arrest, you were spoken to by police. You told police that you had "stuffed up" by recording child porn. You told police that you knew you should not have done it. You admitted that you tried to conceal the hard drive because you knew it contained "child porn". You told police you would download the material two to three nights per week, but did not watch all of it. You said you did not know why you were downloading it. You suggested to police your interest in children came about because you and your wife's sexual relationship was poor.

By way of prior criminal history, I note in 1995 you were convicted of 11 counts of selling unclassified films. Whilst I suspect, given the title of one of the films, that it related to child pornography, there is no evidence from which I can reach satisfaction as to that, and I will not sentence on that basis. I will sentence on the basis that your prior conviction relates to adult pornography videos. You were fined for these offences. Beyond that, you have no relevant recorded criminal history. I note, however, in cases of this nature that does not carry considerable weight in the sentencing exercise. You are 60 years of age. You work on a casual basis as a delivery driver. Prior to experiencing poor health arising from a heart condition, you had a strong work history. I am told you now recognise your wrongdoing and acknowledge the seriousness of it. Your behaviour towards police, I am told, was a consequence of panic. I accept this. Eventually you did co-operate with police and made admissions. The consequences of your offending have been profound. Your marriage has broken down and two of your children now refuse to have any contact with you.

In sentencing the defendant, I have regard to the principles articulated by Porter J, as he then was, in *Director of Public Prosecution v Latham* [2009] TASSC 101. Those principles are well understood and I do not need to repeat them here. I note that whilst the number of images the defendant possessed was less than that which is frequently encountered by courts sentencing for this type of offending, the defendant admitted to police that he was downloading the material two to three nights per week, suggesting an intense interest in the subject matter. And whilst the period of time over which the downloads occurred was limited, there is no evidence to suggest the defendant intended on desisting. The offending ceased because police discovered it.

I have regard to the categorisation of the material generally. The material possessed was predominately category two images and category one videos, a not insignificant portion of them then fell into the most serious category and depicted real children who undoubtedly suffered terrible harm by being involved in the production of the child exploitation material.

Whilst I am not told that the images or videos contained content that was suggestive of obvious physical harm or fear or distress in the children, that in no way equates with a conclusion that no harm was occasioned to the children. It is notoriously understood that children involved in child exploitation material often experience irreparable damage and significant psychological and psychiatric harm. Nothing is put to me to suggest that there was organisation or categorisation of the material found beyond the form in which it was downloaded. There is no evidence the defendant intended to distribute the material and there is no suggestion the material would have been readily accessible by others.

The evils of accessing and possessing child exploitation material have been stated many times by the courts. The production of such material involves the exploitation and abuse of children somewhere in the world. Possession and viewing exacerbates and extends the abuse and exploitation of those children. Accessing and possessing the material creates a demand for its production. Clearly, general deterrence and denunciation are paramount sentencing considerations. It must be understood by the defendant and the broader community that accessing and possessing child pornography in any way, and to some extent regardless of the level of depravity associated with the images, is simply not to be tolerated.

I take into account the defendant's plea of guilty. It has a utilitarian benefit and facilitates the administration of justice. It also indicates an acceptance of responsibility. I am of the view that the seriousness of the offending necessitates the imposition of a period of imprisonment. To ensure adequate punishment and deterrence some of the sentence must actually be served. However, because of the nature and quantum of the material involved, and the very tangible effect the defendant's offending has already had upon his life, I will conditionally suspend part of the period of imprisonment imposed as an incentive to the defendant not to re-offend.

I make the following orders. The defendant is convicted of all matters to which he has pleaded guilty. In respect to the offences of resist a police officer and obstruct the search of warrant premises, I make no further order. In respect to the crime of possession of child exploitation material and possess bestiality product, I impose one sentence. The defendant is sentenced to a period of twelve months' imprisonment. I suspend six months of that term on condition that he commit no offence punishable by imprisonment for a period of two years from today's date. This is a reportable offence under the *Community Protection (Offender Reporting Act) 2005*. I am not satisfied the defendant does not pose a risk of committing a reportable offence within the meaning of that term in the Act in the future. I therefore make an order directing that the Registrar cause the defendant's name to be placed on the register and that he comply with the reporting obligations under that Act for a period of five years from today's date.

I make a forfeiture order pursuant to s 130F(2) of the *Criminal Code* that the Seagate SATA 2 Terabyte hard drive be forfeited to the State.