

STATE OF TASMANIA v ALEX JAMES RADFORD
COMMENTS ON PASSING SENTENCE

6 DECEMBER 2022
GEASON J

Mr Radford, you have pleaded guilty to 15 counts of production of child exploitation material contrary to s 130A of the *Criminal Code*, 4 counts of distribution of child exploitation material contrary to s 130B of the *Criminal Code*, 2 counts of possession of child exploitation material contrary to s 130C of the *Criminal Code* and 5 counts of accessing child exploitation material contrary to s 130D of the *Criminal Code*.

Between at least 21 May 2016 and 31 May 2017, you were residing with your then partner, in Rocherlea. At the time of the offending you were aged between 23 and 24 years old.

In June 2016, the Australian Federal Police (AFP) received a report from the National Centre for Missing and Exploited Children (NCMEC) which revealed that child exploitation material had been transmitted via Facebook messenger.

Just before midnight on 21 May 2016, while you were using the Facebook user name 'Alex Tenebrae' you transmitted one child exploitation image to another Facebook user, Tyler French, using Facebook messenger. Investigations revealed that you first registered this Facebook account on 7 February 2009, using a mobile telephone number subscribed to you and your email address flame_knight_swarm@hotmail.com. This account was disabled by Facebook on 22 May 2016 because the administrators believed it was a fake account.

The image was reviewed and classified according to the categorisation model for child exploitation material published by the Australian National Victim Image Library. The category 4 image depicted a naked prepubescent female on her knees being orally penetrated by an adult male with white fluid around her mouth, on her torso and upper thigh.

On 23 February 2017, the Australian Federal Police received another report from NCMEC indicating that child exploitation material had been uploaded by a Dropbox user to their account under the name ralyk111@gmail.com.

Investigations revealed that the Dropbox account and email address associated with it, belonged to you, the account having being active since 22 March 2015.

Police discovered that you had uploaded 77 child exploitation material files to your account on 23 May 2016 and the IP address associated with that upload was your partners.

The names of the files uploaded indicate that you were predominately interested in toddler and prepubescent females. Examples of file names included: "5yo", "Jenny_9_yo", "10yo Cynthiapussyridingonchair", "11yo girl rides the cock and loves it" and commencing with "young" and "kiddie".

The 77 image and video files were reviewed and classified using the ANVIL categorisation scheme.

The files ranged from prepubescent and toddler aged females posing naked with their legs open exposing their genital area, engaging in solo masturbation as well as adult male oral, anal and vaginal penetration of the victims. A category 5 video which was one minute in duration, shows an infant/toddler blind folded and wearing "pull up" style nappy pants which have been pulled to the side, being forcibly penetrated by an adult male whilst the victim can be heard crying in distress.

The files were categorised as follows:

- Category 1 – 32 images
- Category 2 – 7 images and 2 videos
- Category 3 – 7 images and 4 videos
- Category 4 – 20 images and 4 videos
- Category 5 – 1 video

Those categories are referenced to the ANVIL classification scheme.

At approximately 7:00am on 31 May 2017, members of the Australian Federal Police executed a search warrant at the Rocherlea address. When police arrived, you and your partner were both sitting on a mattress in the lounge room, where you appeared to have been sleeping.

You and your partner showed police the location of the relevant electronic devices and you provided the passwords to your mobile phone and the laptop. As a result, the following items were seized including:

- i An Acer brand Aspire IV laptop;
- ii A Sandisk brand 8G USB stick;
- iii A 1TB Verbatim brand hard drive; and
- iv A brown coloured ZTE blade V0720 mobile phone.

All of those items were located in the lounge room at the premises.

In a recorded conversation under caution, you told police the following:

- i. You had a "split personality disorder" and that you sometimes black out and you do not know what has happened when you wake up;
- ii. You said you did not know if you blacked out and had done something pertaining to this material or not. You indicated that you had attended meetings in relation to this condition but had not been formally diagnosed;
- iii. That Your Facebook account in the name Alex Tenebrae got shut down a while ago for reasons unknown to you ;
- iv. The email address associated with the Alex Tenebrae account was flame_knight_swarm@hotmail.com;
- v. The only email account that you were currently using was ralyk111@gmail.com and you agreed that that email address was connected to your Dropbox account;
- vi. In relation to the child exploitation material uploaded to the Dropbox account in the name of Alex Radford, you stated that you accessed the account using the laptop but said *"I wouldn't have a clue about the 77 child exploitation material files uploaded to the account"*

at all. I haven't accessed my Dropbox in ages because I couldn't remember the password, and I couldn't be bothered changing it because I didn't need to use it anymore";

- vii. You said that you were the primary user of the Acer laptop;
- viii. That you did not know why the Facebook account in the name of Alex Tenebrae would have sent child exploitation material to a person by the name of Tyler French, but that you did not do it;
- ix. When told that the IP addresses used in the upload was subscribed to the residential address which you were living, you responded *"I wouldn't have a clue as to why that is. I mean obviously it must have come from here, but I can't think why"*. You agreed that no-one had the Wi-Fi password to access the internet;
- x. In relation to a number of child exploitation images located in the downloads folder on the laptop predominately used by you, you stated that the only reason that they were there was your alleged split personality came out, but you claimed you did not download those images;
- xi. You told police that you have seen child pornography once before and deleted it immediately. You stated it was a "real life picture" but could not remember the exact content but knew it was a child exploitation image and "got rid of it";
- xii. When shown a child exploitation image found on the laptop, you told police that you saw it when you were searching for a movie. You said that you understood child pornography to be *"anything with sexual content involving a child"* and that a child is *"anyone under the legal age of consent"*;
- xiii. You denied searching for child pornography but admitted to searching for adult pornography.

A forensic examination of all four electronic devices was undertaken by police in June 2017 which revealed that you were in possession of child exploitation images and videos, as well as indicating that you had searched for and accessed such material between 28 July 2015 and 19 May 2017. Some of the images and videos had been deleted but these were able to be retrieved by police.

You had in your possession a total of 277 child exploitation files, comprising of 100 images and 177 videos across all devices, excluding the USB stick. These were classified in May 2018 using the ANVIL scheme as follows:

On the laptop computer:

Category	Images	Videos
1	22	46
2	-	48
3	8	14

4	9	55
5	1	4
6	12	-

On the Verbatim brand hard drive

Category	Images	Videos
3	1	-

On the mobile phone:

Category	Images	Videos
1	32	-
3	9	-
6	6	-

The total on all devices then was:

Category	Images	Videos
1	54	56
2	-	48
3	18	14
4	9	55
5	1	4
6	18	-

Between 28 July 2015 and 19 May 2017 you searched for and accessed 994 child exploitation material files comprising of 636 images and 358 videos using all four devices. This figure includes the 277 child exploitation files that were found in your possession. These files were classified in May 2018 using the ANVIL scheme as follows:

Aspire IV laptop computer:

Category	Images	Videos
1	3	-
2	1	-
3	1	16

4	3	8
5	1	-
6	13	1

USB stick:

Category	Images	Videos
1	2	-
3	3	-
4	5	-

Verbatim hard drive:

Category	Images	Videos
1	175	10
2	30	43
3	128	20
4	137	76
5	25	7
6	9	-

The totals are as follows:

Category	Images	Videos
1	180	10
2	31	43
3	132	36
4	145	84
5	26	7
6	22	1

The child exploitation material you accessed and which was found in your possession reveals that you had a particular predilection for female children from babies to mid-teens. The files ranged from depicting a clear focus on genitals and suggestive posing in a range of settings, to oral, anal and vaginal penetrative sexual activities.

There were also webcam style recordings which included sexual activities between more than one victim and were predominately self-penetration or masturbation. All of the victims in category 5 were bound and tied up and in one image, the victim had her mouth taped. The offenders were predominately adult males with a small number of female adult offenders sometimes involved.

Some examples of the file names were *"7yrs sex with dada"*, *"girls 0 to 5 having sex with men child_"*, *"girls 5 to 10 with men_"* *"childporn is cool"*, *"Dad fingering 2yo girl"* and *"10yo ass fuck"*.

The forensic analysis also revealed that you had saved and categorised the child exploitation images and videos into folders.

In relation to the laptop, a large proportion of the material was saved on the desktop in a folder entitled "entertain" and then some of the videos were saved in a sub-folder called "man & girl 0-3 videos.". On the Verbatim hard drive, the videos and images were saved in a folder called "private pics". On the USB stick all of the material was saved in a folder called "sexy" or in a sub-folder of the "entertain" folder called "Alex's\pics(1)" or "Alex's\loli shop".

The shortest video was 9 seconds and the longest was 87 minutes and 49 seconds. The total length of all of the videos where known was approximately 16 hours.

Forensic analysis revealed that the email accounts flame_knight_swarm_@hotmail.com, rallyk111@gmail.com and rallyk111@aol.com were on your mobile phone. Facebook and Facebook messenger were also installed. Further forensic review revealed a number of Google Chrome internet bookmarks on the mobile phone such as *"lolita"*, *"teeninlove.com"*, *"daddysplace.chatango.com"* and *"incestporncomicsfree.xcartx.com"* which are demonstrative of the nature of your interest in the type of child exploitation material.

As a result of your denials in the interview with police, three mutual assistance requests were made to the United States of America via the Attorney General's office in Canberra. These were made on 16 August 2017, to Google, Dropbox and Facebook. Copies of the files identified as child exploitation uploaded to or sent and received from these accounts, as well as relevant account information was requested. Those requests were responded to on 18 March 2019.

In the course of the forensic analysis of your ZTE Blade mobile phone, police identified two thumbnail images of a young female that appeared to have been taken in the lounge room at your home in Rocherlea on 24 April 2017. The images appeared to have been taken discreetly by you whilst the female was getting dressed, and so as not to attract attention to your conduct.

Police identified that the application Kik Messenger was installed on your mobile phone. Kik Messenger is a free instant messaging application and it is used to send messages, photos and videos between users. The username "darkness2469" (screen name "alex the king") was logged into Kik at the time of that forensic examination.

The metadata captured in these two images revealed that they were taken using the camera within the Kik Messenger application installed on that phone. The first image taken by you at 2:40pm, showed the young female naked exposing her vagina and breasts. The second image taken by you at 2:40:54pm, shortly after, showed the young female in the next stage of dress, wearing underpants.

The young female was subsequently identified as your partners cousin, who was 9 years old at the time these images were taken She had been staying at your residence during the school holidays between April 2017 and May 2017.

As a result of the discovery of the two images on your mobile phone, on 1 September 2017, police submitted a mutual assistance request to Canadian authorities via the Attorney General's Department in Canberra, in relation to the Kik account identified by the username "darkness2469" and to specifically identify any content sent to or received between 19 April 2017 and 17 May 2017.

On 15 November 2018 the evidentiary material was received from the Canadian authorities and specifically Kik Interactive Inc. It identified that the "darkness2469" account was created on 26 October 2016 at which time the IP address was that of your home address.

It confirmed that the account was created using your ZTE Blade mobile phone, the associated email for the account was ralyk111@aol.com, the screen name was "alex the king" and your date of birth was recorded.

Chat logs provided by Kik showed that on 24 April 2017, while using your Kik account "darkness2469" you sent another Kik user "hannithequeen" (screen name "hanni the weirdo") the two images taken by you of your partners cousin, almost immediately after each of them were captured on the phone.

The first image referred to in count 17 was sent by you to "hanni the weirdo", six seconds after it was taken, and the second image referred to in count 19 was sent to that same user, five seconds after it was taken.

The records provided by Kik Interactive Inc revealed that communication between you "darkness2469" and "hannithequeen" over Kik commenced on 23 January 2017. You told "hannithequeen" such things as *"we need kids"*, *"daddy needs tiny cunt"*, *"daddy's very kid friendly today"*, *"lol I'm always kid friendly"* and *"I want you to eat my cousin while I fuck herrrr"*.

It was further revealed that between 12:19pm and 3:45pm on 27 April 2017, you again using the username "darkness2469" communicated with "hannithequeen" using Kik, where you described sexual activity between yourself and your partner's cousin. This was three days after you sent "hannithequeen" the two images the subject of previous counts referred to in the facts.

The communication was graphic and included exchanges such as these:

hannithequeen: so...were you hard?

you: Solid as diamond

hannithequeen: Mmmm what did she do

darkness2469, that is you: Grinded harder

hannithequeen: Oh my fuck...Did she touch it.

you: Nah

hannithequeen: Damn.

darkness2469 - you: I know

hannithequeen: I wish I was there lol

you: Same

hannithequeen: Hehe

you: Doesn't she have a cute lil pussy?

hannithequeen: Yes she does.

you: What do you wish I did?

hannithequeen: A lot more then you did.

you: So...if I slipped sleeping pills into everyone's food and tongue fucked her before rubbing my cock up and down her pretty little cunt till I came then cleaning it up so none could know. You would be happy?

*hannithequeen: Very...is that what you doin...*did*

you: Yup. She's very yummy.

The communication continued with "hannithequeen" sending a message telling you that *"he wanted to see"* and *"could they Skype"*. You replied *"lol she's gone home now sadly"*.

On 29 April 2017, the communication over Kik Messenger between you and "hannithequeen" continued. "Hannithequeen" sent you eight images after you told him you were "throbbing". The following day on 30 April 2017, you accessed the images and viewed them on your mobile phone and told "hannithequeen" that you were *"so hard"*.

Seven of these images were classified as child exploitation material in category 6 anime. All of the images depicted females ranging in age from babies to young females and involved digital, oral, anal and vaginal sexual intercourse with adult men. In one image depicting a very young female, a male had his penis in her mouth and an object was inserted into her vagina. On the female's body was written derogatory comments such as "tiny whore", "daddy's little slut" and "dicks please" with arrows pointing towards her vagina.

On 7 May 2017, "hannithequeen" sent 6 child exploitation images to you via Kik Messenger, which were viewed by you. These were categorised as category 6 anime. After you looked at them, you replied *"gorgeous"*. All of the images depicted young to prepubescent females engaged in oral, anal or vaginal sexual intercourse with adult men, with one image depicting multiple adult men.

On 8 May 2017, "hannithequeen" sent a child exploitation image to you which you viewed on your mobile phone. The image was classified as a category 6 anime. You then asked "hannithequeen" whether he loved the image - being a drawing of a child having sexual intercourse with an adult male while a female said to that child *"Mandy, sweetie, you need to*

finish up in the next 30 minutes – it's a school night!". "Hannithequeen" said "Mhm!!" and you replied "Let's make it real OK?"

On 16 May 2017, "hannithequeen" sent you 18 more images of which 14 were child exploitation category 6 anime. After you viewed them on your mobile phone, you replied *"Ur so perfect"*. All of the images depicted females from babies to young females involved in oral and vaginal sexual intercourse involving teenage boys and adult men. Some of the images involved the victim being vaginally and orally penetrated by multiple men and one image depicted the female's shoulders being secured in straps beside her head and her hands held down, whilst being vaginally penetrated by a penis.

In November 2019, your ZTE Blade mobile telephone was re-analysed with updated forensic technology. As a result of the metadata obtained from the new forensic analysis, police located 12 child exploitation images depicting your partner's cousin, taken by you using that mobile phone, covertly under a quilt at the Rocherlea residence on 12 January 2017 between 1:20am and 5:21am.

There were 11 category 1 images and one category 3 image.

The images depict her lying naked from the waist down under a quilt or doona. In all of the images there is a clear focus on her vagina. One of your feet was captured in the images positioned near her upper thigh area or at the base of her vagina. The category 3 image showed your foot touching her vagina. Given the time the images were taken, it is accepted by the State that she must have been asleep and not been aware of your actions.

Her mother confirmed with police that she was staying with your partner at this time. Tasmania Police spoke with her and no disclosures were made by her suggesting any awareness of any sexual offending involving you.

Given the new forensic evidence, police offered you the opportunity to participate in a further record of interview to which you agreed. On 25 November 2020, you told police the following:

- That you remembered the previous warrant that had been executed early in the where devices were seized and inappropriate material had been found.;
- When shown a photo of your partner's cousin you told police that she looked familiar. You could not identify her, describing her as a "young girl wearing a pink shirt dress or nightie";
- When shown the same photo again and asked why an image of that young female would be on your mobile phone, you stated that you assumed it would be because she was staying with you at some stage;
- When shown an image of her naked initially you stated the only thing that was familiar in the image was the mattress. When asked to describe the image you stated there appeared to be a young child in what looks to be the process of getting dressed or undressed. You told police that you had no idea how it got onto your phone;
- You claimed to be unable to recall if you had the Kik application on your phone. You said that you had heard of Kik and did not recall the username "darkness2469". No-one else to your knowledge used your phone and you did not consent to that application being on there;

- When told that the Kik account with screen name "alex the king" was found on your phone together with multiple photos of you, you told police that it could be assumed that "alex the king" was in fact you;
- When the Kik Messenger communication between you and "hannithequeen" was read to you, you became nauseous and the interview was suspended;
- On resumption you stated that you felt empty and stressed *"because this is vile, everything that he has apparently said, it's sick and that you should be put to death"*
- When asked what is sick you stated that the fact that conscious or not that you would even consider harming a child;
- When asked if you had harmed a child, you stated *"not consciously no"*;
- When shown the first of the 12 images taken by you of your partner's cousin, you stated it appeared to be an inappropriate photo which was sexually based;
- At this stage of the interview you took a series of deep breaths and appeared to become distressed;
- When shown the second of the images taken by you, you stated that it appeared to be the same as the first image but lit better, like a flash had been used. In relation to the third image, you acknowledged that there appeared to be a foot in it;
- When asked to describe the genitalia in the images, you could not as you were unable to think of any words for it but agreed with the description that the genital area of the female in the images appeared to be genitals of a young female person;
- You said you would not have a clue how the images got on your phone;
- You said that you sometimes black out and cannot remember things while they happen and the last time that occurred was about a year ago. Things that occur more than a month ago get hazy for you;
- You said that there is no medical diagnosis but you saw someone at ForensiClinic for ten sessions which ceased in 2018. You said you now speaks to a social worker to help manage your stress; and
- Prior to the warrant you wanted to be a dad but had now made the decision not to have children. When asked why, you told police that you did not want to have any kids you could put in danger.

You were charged on complaint with these offences on 29 January 2021.

You are now 30 years old.

You attended school in Queensland until grade 11 and were then enrolled in year 12 in Launceston but your attendance is described as being poor.

I have received a psychological assessment in relation to you from Dr O'Donnell.

It identifies a childhood history of familial disruption including a sudden disconnection from your stepfather during your early childhood. You identify that disconnection as a significant emotional rejection, more so because your stepfather continued to maintain contact with your younger sister. You describe your academic performance suffering thereafter and your psychological functioning as having "gone downhill", from which you have not recovered.

More positively, it is reported, that you enjoy a good relationship with your biological father. and your mother. They are aware of these charges and they are supportive of you.

Not surprisingly your personal relationship ended with you being charged with these offences.

It is reported that you have a tendency to get lonely very easily but prior to your incarceration for these offences you had in fact developed a friendship group which you described as supportive.

You described periods of depression and an attempted suicide when you were 12 and a few suicide attempts since - though none since 2020. Psychometric assessments were undertaken and you are diagnosed with episodic depression which you have endured since early adolescence. You exhibit borderline personality disorder, and paraphilic disorder. You apparently find it difficult to speak about your sexual interests and Dr O'Donnell's opinion is that you require continued psychological intervention to understand and manage your sexual thoughts feelings and behaviours. Relevantly for sentence she considers that you were fully capable of understanding your conduct and the wrongfulness of it and she does not consider that your mental health issues deprived you of the power to resist your impulses.

All of your mental health conditions are considered amenable to psychological treatment directed towards improving your coping strategies and the management of your thoughts feelings and behaviour.

She opines that you are at risk of increased depressive symptoms in a prison environment and an increased risk of suicide. She considers that you would benefit from engagement with therapeutic services and from participation in the new directions programme.

She also considers that you would benefit from a home detention order, but in my view such sentencing order would be inappropriate not least because such order is limited to a period of 18 months duration, but also having regard to the gravity of your offending such a sentence fails to carry sufficient punitive force to punish you and deter others.

These are very serious offences, and included the production of child exploitation materials involving a person under aged 13, that aspect an aggravating factor given statutory force under s 11A of the *Sentencing Act*.

The images are graphic and the harm done to the victims of those depicted in these images undoubtedly significant. I acknowledge that in relation to the material you produced involving your partner's cousin, there is no evidence of actual harm having been caused to her, because she was unaware of your activities. The other material shows children suffering significant physical pain with undoubted psychological and emotional consequences for them.

I accept the proposition that treatment is the most appropriate pathway to dealing with your significant psychological problems and in particular your sexual interest in children. However it is clear that in order to protect children it is necessary to impose a sentence which deters those who are responsible for the production of such material and its circulation. The objective seriousness of your offending is high. It involved the exploitation and corruption of children, behaviour that serves only to encourage those who produce it. The age of the children depicted in a lot of the material, in fact most of the material, is an aggravating sentencing consideration. Your behaviour in cataloguing the material evidences a high degree of personal interest in it and that is also an aggravating factor. As I have already said, your involvement in the

production and distribution of such material is a particularly serious aspect of your crime, as is your participation in chatroom exchanges which further reinforce Dr O'Donnell's opinion and my view based upon this offending, that you have a significant unhealthy interest in sexualising children.

I take account of your early plea of guilty and I will discount the sentence to reflect the utilitarian benefit which accrues in consequence of that.

I also accept that you are ashamed and remorseful.

I accept that it has taken some time to resolve this matter and you will have endured an extended period of anxiousness awaiting its resolution.

You have no prior convictions, but that is not unusual in cases such as this.

It is my view having regard to the seriousness of your offending and the need to deter others from the production of this type material, imprisonment is the only proper sentencing response.

You should use the period of incarceration to engage in programmes as Dr O'Donnell has suggested, directed towards addressing your interest in this material and engaging where you can with appropriate qualified therapists.

I will sentence you on the indictment.

I note the effect of s 11 of the *Sentencing Act* and I will return to that.

The sentence the Court imposes on the indictment is imprisonment for a period of four years. That sentence reflects the gravity of your offending but also takes account of the totality principle. It commences on the date that you were taken into custody. In order to encourage your rehabilitation and in particular your participation in therapeutic programmes, I will suspend the operation of 12 months of that sentence on condition that you not commit an offence punishable by a term of imprisonment for a period of 4 years.

Pursuant to the Community Protection (Offender Reporting) Act 2005 I direct that your name be placed upon the register for a period of 10 years commencing upon your release. There are reporting obligations that attach to that and these will be explained to you and set out in the sentencing memorandum.

Section 11 of the *Sentencing Act* requires me to identify the sentence I would have imposed in respect of individual counts which I regard as a wholly artificial exercise but it is one that is required.

For the 15 counts of producing child exploitation material – a grave breach of trust- I impose individual sentences on each count of two months to operate cumulatively . That is a total of 30 months in respect of the production of that material.

For the 4 counts of distribution I impose individual sentences of three months imprisonment to operate cumulatively to one another and with the previous sentences. That is an additional 12 months.

For the 2 counts of possession of child exploitation material I impose sentences of three months to run cumulatively with the first sentence. That is an additional six months and I suspend two months of that sentence.

For the 5 counts of accessing child exploitation material I sentence you to two months on each count, cumulative to one another but concurrent with the other sentences. That is 10 months and I suspend that sentence.

The State makes application that the following items are forfeited to the Crown pursuant to s 130F *Criminal Code*:

- (a) Acer Aspire IV laptop computer –;
- (b) Scan Disk 8G USB stick;
- (c) 1TB Verbatim hard drive; and
- (d) The ZTE blade V0720 mobile telephone.

I make those orders.