

You have pleaded guilty to one count of accessing child exploitation material and one count of possession of child exploitation material, contrary to ss 130D and 130C of the *Criminal Code*, respectively.

Between December 2012 and the detection of the offences on 3 March 2015, you accessed, via the Internet, a range of child exploitation material. You did so by using software which was in general use for the purpose of searching the Internet. While this software was appropriate for your purpose, it is not specifically adapted for the purpose of accessing child exploitation material. When police seized your laptop computer and associated computer storage devices, they located in your possession 30,795 images and 276 videos depicting child exploitation material. The material has been categorised in accordance with the scale applied in *R v Oliver*. The vast majority of the images and 192 videos fall into category 1 and 2. However, six images are in category 3, four images and 36 videos are in category 4, and one video falls into category 5.

The material includes three videos depicting infants/toddlers engaged in sexual activity, and one video depicting the vaginal penetration of an infant female by an adult male. A number of videos depict young prepubescent female children performing sexual acts in accordance with directions clearly being given to them from off camera. A number show adult males having penetrative sex with female children of that age. Many of the images depict young female children in sexually explicit poses, which include the display of their genitalia. In short, the images depict the serious sexual abuse of numerous young female children, some as young as infants.

The material was stored on the computer and on four separate storage drives. I am told, without contest, that the majority of the images, the category 1 material, was stored on a hard drive which had been placed in a cupboard and not opened or viewed by you. However, there is no similar suggestion made in relation to the other material, which I note includes the category 4 and 5 materials.

You are almost 69 years of age. Your record of prior convictions consists of one relatively minor firearms offence. You have two teenage children. You are not in good health, suffering from high blood pressure and high cholesterol. You have a good industrial record.

You are a British citizen, although you have lived in this country on a permanent resident visa since you were 13 years of age. A consequence of your commission of these offences will be the potential for the cancellation of your visa and deportation to the United Kingdom. I am told that you do not intend to contest the cancellation of your visa and will voluntarily remove yourself to Britain, when you are able to do so. You have already sold your house in anticipation of taking this course. Your counsel submits that this will result in a significant saving of expense to the Australian community and is a real sign of remorse. He submits that you will suffer hardship because you will have to start life again in a country with which you are not familiar. Your counsel submits that this is a significant mitigatory factor.

You are not charged with producing child exploitation material. You initially came into possession of some material after a general search for pornography on the internet and continued thereafter to access child exploitation material and retain same. You are not part of a group who shares material of this nature. The material in question has been accessed and retained by you for your own use. You are a person of prior good character, and I accept that because of your choice to return to the United Kingdom, you will suffer some hardship.

Having said that, I consider that there are a number of serious aspects with respect to your commission of these offences. The collection of child exploitation material of any description creates a market for, and thereby encourages, the production of such material. This directly and adversely impacts on the children who are the subject of that material, and generally encourages the ongoing abuse of children. Obviously, the impact on the children concerned is directly proportionate to the nature of the material, and the number of children affected correlates to the amount of material. The material that was accessed and possessed by you depicts the extremely serious abuse of young children, as I have already described. While all of the material is concerning, the activity involving toddlers and an infant is extremely disturbing. The large number of items in your possession means that many children were subjected to abuse in the production of that material

I accept that you did not view some of the material and that this was not a case where access to the material was obtained through an organised group or commercial enterprise. I regard those matters as the absence of those particular aggravating factors, rather than your conduct being mitigated because of them. In fact, there is very little about the circumstances of your commission of the offences which mitigates your conduct. At the end of the day, you deliberately chose to access and possess this material and you were aware of the nature of the material, particularly that in the more serious categories.

It is well established that general deterrence and community denunciation are very significant sentencing considerations in respect of offences of this type. Your prior good character is relevant, but that characteristic is often encountered by courts in cases such as this, and deserves comparatively little weight in the sentencing process when balanced against the need to deter others and to denounce the conduct. Your pleas of guilty will also be taken into account. As for your decision to return to the United Kingdom, I have no doubt that this will involve some hardship and is relevant in mitigation of penalty for that reason. However, to be balanced against this is that residence in this country pursuant to a visa, involves an extension of the community's trust that you will obey the law and avoid serious offending. The commission of these offences involved a serious breach of that trust. It is for this reason that the law places in jeopardy the continuation of the privilege to continue to live in this country, upon conviction for these offences. Having said that, I do accept that that matter is a significant mitigatory factor as it, in effect, represents extra curial punishment.

In my view, a sentence of actual imprisonment is the only appropriate sentence. You, and others who would access and possess such material, must understand that such conduct will not be tolerated and will incur severe punishment. You are sentenced to 10 months' imprisonment, which will commence immediately. But for the mitigatory factors the sentence would have been longer. You will pay victims of crime compensation levies of \$100 within 28 days of your release from prison.

I am required to make an order under the *Community Protection (Offender Reporting) Act* 2005, unless I am satisfied that you do not pose a risk of committing a reportable offence in the future. Having regard to the circumstances of this case, I am not satisfied of that matter and, accordingly, must make an order. I order that your name be placed on the register pursuant to that Act and that you comply with the reporting obligations under that Act for a period of five years.