

Mr Day has pleaded guilty to three charges of producing child exploitation material. The circumstances are unusual.

Between 25 December 2010 and 24 June 2013, he was in prison as a result of committing a series of crimes relating to child pornography. On 21 May 2012, prison staff found that he had written some pornographic graffiti relating to children on the wall of his cell. He was moved to another cell where, on 2 June 2012, prison staff found that he had written more pornographic graffiti relating to children, this time underneath a desk. By virtue of a definition in s 1A of the Criminal Code, any written material that describes a person under the age of 18 years in a sexual context, in a way that a reasonable person would regard as being, in all the circumstances, offensive, amounts to "child exploitation material". Therefore, when Mr Day produced those pieces of graffiti, he committed the crime of producing child exploitation material. The first two charges that I am dealing with relate to the graffiti in the two different cells.

Mr Day re-offended, committing further child pornography crimes. He returned to prison on 31 August 2013 after less than 10 weeks at liberty. He has been in prison ever since. In or about June 2015, he again committed the crime of producing child exploitation material, this time by writing a number of little stories about children engaging in sexual activity. Any reasonable person would regard them as being particularly offensive.

Mr Day is 60 years old. He had no significant convictions before 2012. In March 2012, for a mixture of State and Commonwealth child pornography crimes, I imposed prison sentences which, in effect, amounted to head sentences totalling 5 years, with provision for him to be released 2½ years after his arrest. As a result of him committing further crimes, another judge sentenced him in February 2014 to 174 days' imprisonment, backdated to the day of his arrest, under State legislation, and to a further 12 months' imprisonment under Commonwealth legislation, subject to a recognizance release order, as well as activating the balance of his original Commonwealth sentence in consequence of him having breached the conditions of his first recognizance release order. As a result, he was serving sentences in relation to his earlier crimes until 16 May 2016. Since then he has been held in custody only in relation to the three crimes for which I am about to sentence him.

Mr Day suffers from bipolar disorder. All of his offending has occurred during manic episodes. There is no suggestion that he has ever harmed a child. He does not have children himself. Some years ago he used the internet to circulate offensive stories about sex with children, not knowing anything about the mental state of any of his readers. That may well have put some children somewhere at risk of sexual abuse. However the material that I am concerned with today had a particularly small readership, and is not likely to have done any harm beyond creating feelings of disgust and revulsion in those who had to deal with it. Mr Day has remained in prison for a

little over 4 months as a result of these crimes. No greater period of imprisonment is called for. I will therefore impose a backdated prison sentence, but I will also make a probation order because I think he needs supervision and assistance. I need not make an order under the Community Protection (Offender Reporting) Act 2005 because Mr Day is already obliged to comply with the reporting obligations under that Act for the rest of his life.

Sonny Day, I convict you and sentence you to 4 months' imprisonment with effect from 17 May 2016. I make a probation order, to operate for 3 years from today, with special conditions that (a) you are to attend any programs that a probation officer directs you to attend; and (b) you must submit to psychological or psychiatric assessment or treatment as directed by a probation officer. I order you to pay your victims of crime