

STATE OF TASMANIA v ANDREW LEWIS MULLER
COMMENTS ON PASSING SENTENCE

17 APRIL 2024
BLOW CJ

Mr Muller has pleaded guilty in the Magistrates Court to a charge of possessing child exploitation material. Police officers conducted a search at his home on 20 October 2021. They removed a portable hard drive that was found to contain 1224 files containing child exploitation images and videos. They also removed a laptop computer containing four such files and a desktop computer containing two more. The material was classified using the Australian Child Abuse Categorisation Scheme. According to that classification, there were 1025 files in Category 1 and 205 files in Category 2. The material suggested that Mr Muller had a particular interest in girls aged under 5 years. The material was saved in folders that were labelled in numerical order and filed in a system based on the ages of the children.

The material included still images and videos of men engaging in oral, vaginal, anal and digital penetration of children. Some of the children reportedly had obvious signs of distress on their faces, were restrained with ropes and straps, or were blindfolded. One had a cigarette in her vagina. Others had semen on the mouth, face, chest, stomach or vagina. Many of the victims appeared younger than five years old.

Mr Muller has no prior convictions. He cooperated with the police, providing them with a password and making significant admissions during an electronically recorded interview. He was not charged until 3 March 2023, more than 16 months after the police search. He pleaded guilty in the Magistrates Court on his third appearance, on 1 August 2023.

He told the police that he had downloaded the material when he was between 16 and 20 years old. He was 23 years old at the time of the police search and is now 25. He said that he did not enjoy looking at the material and that he was disgusted with himself. He said that he did not delete the material because he did not want to look at it again or touch the devices containing it, and wanted to forget about it. He had not looked at it for years.

Mr Muller is single. He lives with his father, his father's partner, and his sister. He has a young daughter. He is separated from the child's mother. It was the mother his child who reported his possession of the child exploitation material to the police. He has been employed in an automotive store since he was 14 years old, and is now in a managerial position there.

I have been provided with a thorough report on Mr Muller by a forensic psychologist,. It appears that he has problems with persistent depression, chronic tiredness and social isolation. His depression appears to have been exacerbated by his mother dying only 4 days after the police search. His only social outlet is on-line gaming – not gambling but games. The psychologist assessed his risk of re-offending as average.

The psychologist has made a number of recommendations as to steps Mr Muller could take in relation to his depression, tiredness and social isolation. I have obtained two reports from a probation officer who has said that Mr Muller is considered suitable for supervised probation but not court-ordered community service.

I accept that Mr Muller had no interest in the material found by the police, and that he ceased to be interested in child exploitation material about five years ago, when he was about 20 years old. In the circumstances, it would be inappropriate to send him to prison today. However possession of child exploitation material must always be treated as a very serious matter

because of the terrible harm that is suffered by the exploited children. In the circumstances I think that the most appropriate penalty is a wholly suspended prison sentence. I will order supervised probation and also order that Mr Muller's name be placed on the Sex Offender's Register because the possibility of him re-offending cannot be ruled out.

Andrew Lewis Muller, I convict you and sentence you to 6 months' imprisonment, wholly suspended on condition that you commit no offence punishable by imprisonment for a period of 2 years. I make a community correction order, to operate for 12 months from today, with special conditions that during that period (a) you must submit to the supervision of a probation officer as required by the probation officer; (b) you must attend educational or other programs as directed by a probation officer; and (c) you must submit to medical, psychological or psychiatric assessment or treatment as directed by a probation officer.

I order that the items listed in paragraph 21 of the Crown statement of facts be forfeited to the State of Tasmania. I order that the Registrar appointed under s 42 of the *Community Protection (Offender Reporting) Act* 2005 place your name on the register under that Act and that you comply with the reporting obligations under that Act for 2 years.