

COMMENTS ON PASSING SENTENCE

BLOW CJ

Mr Chia has pleaded guilty to charges of possessing child exploitation material, accessing child exploitation material, and possessing a bestiality product. I am dealing with the third charge under s 385A of the *Criminal Code*.

It came to the attention of Tasmania Police that Mr Chia's Internet Protocol address had been used to access and download child exploitation material in late 2014 and early 2015. During March 2015 police officers conducted a search of his home. His computer equipment was seized. He participated in an interview with police officers, and admitted to viewing and downloading child pornography. An analysis of the material found on his computer equipment revealed child exploitation material comprising 167 videos and 2 images. The police also identified 11 items that depicted bestiality.

The child exploitation material was classified in various categories, as follows:

- In category 5, there was 1 video that depicted either sadism, humiliation, torture or child abuse.
- In category 4, there were 31 videos that depicted penetrative sexual activity either between children or between adults and children.
- In category 3, there were 4 videos that depicted non-penetrative sexual activity between adults and children.
- In category 2, there were 85 videos that depicted either solo masturbation by a child or non-penetrative sexual acts between children. This category also includes the penetrative use of sex toys by a child.
- In category 1, there were 46 videos and 2 images depicting children in sexually suggestive ways, not involving sexual activity. The police also found a large quantity of adult pornography that Mr Chia had downloaded legally. He told the police that he had been downloading 20 to 30 pornography videos at a time, a few times per week. He decided what material to keep, and sorted the chosen material into folders. There is no suggestion that he paid for any of this material, nor that he produced any child exploitation material, nor that he sold or distributed any. There was very little risk that anyone, except perhaps his wife, might inadvertently see the material on his computer. In the course of their investigations the police discovered that Mr Chia had secretly been filming women who used the bathrooms at his home. Between April 2012 and February 2015 he had used two hidden cameras to record over 400 videos depicting dozens of Asian women changing, showering, using the toilets, and otherwise using the bathrooms. Two of the females were under the age of 18 years, but they were not filmed doing anything that would result in the videos of them constituting child exploitation material. Each time he filmed a woman using a bathroom, Mr Chia contravened s 13A of the *Police Offences Act 1935*, which makes it an offence to visually record another person in such circumstances. By virtue of s 26(1) of the *Justices Act 1959*, proceedings for such an offence may not be instituted more than six months after it is committed. No proceedings were able to be instituted against Mr Chia in respect of his covert videos because they were all recorded more than six months before the police were able to view them. However his activities in making covert videos are relevant for present purposes in two ways. The first concerns the fact that Mr Chia has no prior convictions. That would normally entitle an offender to some leniency. But in deciding what weight to attach to

the fact that Mr Chia has no prior convictions, I will take into account the fact that he made the covert recordings, and did so over a period of nearly three years. His recording activities are also relevant to the order that I will have to make under the *Community Protection (Offender Reporting) Act 2005*. I will have to fix a period, not exceeding 15 years, during which he must comply with the reporting obligations imposed by that Act. The information that I have suggests that a very long reporting period would be appropriate. There are of course matters that must be taken into account in Mr Chia's favour. He is 60 years old and, as I have said, has no prior convictions. Obtaining child exploitation material was not the sole or dominant purpose for his downloading of pornography. The bulk of the material that he downloaded depicted adults. He did not take sophisticated steps to conceal his activities. He made full admissions to the police. He co-operated by providing them with an encryption code. He pleaded guilty at the earliest opportunity. He sought psychiatric advice after being charged, but was advised that he did not appear to have any mental illness or any need for medication. He proposes to have counselling to ensure that he does not re-offend. The quantity of child exploitation material found by the police is far smaller than they sometimes find. Collections of thousands or tens of thousands of items are, sadly, not uncommon. However crimes involving child exploitation material must be severely punished because of the harm that is done to the exploited children. In this case, Mr Chia's material depicted children as young as 6 years old. Although Mr Chia's collection of such material was, by some standards, a small one, I still think a prison sentence is warranted. Hock Leong Chia, I convict you and sentence you to 9 months' imprisonment with effect from 25 November 2016. 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 15 years. I order that the items numbered 1, 2, 3, 5 and 6 on Property Seizure Record 101643 be forfeited to the State of Tasmania. I order you to pay your victims of crime compensation levies of \$100 within 28 days after your release from prison.