

STATE OF TASMANIA v TROY ADAM STEVENS
COMMENTS ON PASSING SENTENCE

6 JUNE 2024
JAGO J

Mr Stevens you have been found guilty by a jury of one count of distribution of child exploitation material, three counts of possession of child exploitation material and one count of indecent assault. It is my task to find facts for sentencing purposes consistent with the jury's verdicts. In my view, the facts largely follow from the verdicts as your case was that the charges against you were essentially the product of collusion. I note I may only make findings adverse to you if satisfied beyond reasonable doubt they have been proved, and I may only make findings of fact in your favour if they are proved on the balance of probabilities.

On 25 April 2018, police executed a search warrant at your residence. At that time you were living with your wife and children. When police attended, you were in possession of a black OPO brand mobile phone. Police seized that from you. A second black OPO mobile phone was found in the bathroom area.

You were subsequently taken to the Burnie Police Station. Whilst you were being spoken to by police, another police officer opened a WhatsApp application on the OPO phone that had been found in the bathroom. Contained within that application was child exploitation material and a message chain indicating you had distributed child exploitation material. This led to police returning to your residence to conduct a second search. During the second search a third mobile phone was found, hidden in a man hole in the roof. That phone was a silver ZTE mobile phone.

All three phones were sent for forensic examination. Child exploitation material was found on all three devices. On the black OPO phone that you had handed to police during the original search, 273 images and videos were located. On the black OPO phone found in the bathroom, 4,803 images and videos were located. On the ZTE mobile phone, 7 videos were located. In total then, you were in possession of 5,083 images and/or videos which were child exploitation material.

Approximately 1,400 of those images and videos were categorised in accordance with the ANVIL categorisation system. The main of the videos and images located were Category 1, which is a milder level of child exploitation material and involves depictions of children in sexually suggestive poses or which are otherwise sexual in nature. There were, however, also found some images which involved penetrative sexual activity between children, and children and adults. Additionally, there were also images involving sadism or bestiality and physical child abuse found. A small number of images involving animated child exploitation material were also found. Of the images and videos categorised 908 were Category 1; 104 were Category 2; 168 were Category 3; 259 were Category 4; 12 were Category 5 and 6 were Category 6.

As to the material that you distributed via the WhatsApp application, one of those images was a Category 1 image; one of the videos contained Category 4 material and depicted penetrative sexual activity between children and an adult, and one video was a Category 2 video involving a solo masturbation act by a child and/or a sexual act between children in which penetration did not occur.

The indecent assault was committed by you between April 2018 and April 2020. The victim of your abuse was a young girl whom I shall refer to as "K". K was the daughter of one of your

friends. When she was aged between seven and eight years, you took her to the Romaine Park. Your two sons were also with you. The boys went to play but you made K stay in the car. You showed her a pornographic video on your mobile phone and then touched her. You placed your hand onto her vagina. You put your hand underneath her trousers but you did not go underneath her underwear. The incident was distressing for K. She ultimately disclosed it to her brother and then to her mother and reported the matter to police in May 2021.

When interviewed by police you denied knowledge of any of the child exploitation material on the devices. You denied that you had sent the message chain on WhatsApp and you denied that you had indecently assaulted K. You gave evidence at your trial and maintained this position. You suggested it must have been your wife who downloaded the material onto the three mobile phones. You suggested that K's mother had somehow instigated K to tell lies about you. The evidence you gave at trial was clearly rejected by the jury. In my view, they were right to do so. I did not find the evidence you gave at trial to be at all believable. The explanation you offered at trial is indicative of a complete lack of insight or preparedness to accept responsibility for your conduct. You have not demonstrated any remorse for your offending behaviour. You are, of course, not to be additionally punished for proceeding to trial, but you are not entitled to the mitigatory benefit which would have flowed from a plea of guilty.

K has been badly affected by your indecent assault upon her. Her victim impact statement speaks to the fear, anxiety and doubt she experienced after the incident. She became very reserved and withdrawn and had nightmares about what you did to her. Her impact statement also describes the anxiety and stress she felt in having to give evidence in Court, and describes the sense of fear she experienced having to "re-live" the incident.

You are now 41. You were aged between 36 and 38 when the crimes occurred. You have no relevant prior convictions. You experienced a difficult upbringing. Your parents separated when you were 11 and you then lived between two homes. Your relationship with both parents was marred by difficulties. Your mother developed a relationship with a new partner, who was a violent man, and you regularly witnessed him perpetrating family violence upon her. He was also violent to you on occasion. Your father was a harsh disciplinarian. He regularly inflicted quite cruel physical discipline upon you.

You suffer from a hearing impairment. It has been a difficulty for you since childhood and because of it you experienced much bullying at school. This often led to you becoming involved in fights and you were expelled from school when you were in Grade 8. You, therefore, have had a limited education which has impacted upon your literacy and numeracy skills. To your credit, you have done Adult Education courses in an endeavour to improve the same. You have always been able to obtain employment, predominately in labour based industries, but when these charges arose you lost your employment, and you have experienced financial hardship since.

The experiences you endured in your childhood led to you being diagnosed with Post Traumatic Stress Disorder and depression. You continue to be medicated for those conditions.

You have been remanded in custody since 15 May 2024. This is the first time you have experienced incarceration. It has been a difficult experience for you and you have already been the victim of assaults. I accept your hearing impairment makes you vulnerable in the prison environment.

These are undoubtedly serious crimes. Sexual offences against children are presumed to cause psychological harm, often over a lifetime. K has already endured difficulties as a consequence of your abuse of her, and it is realistic to think that other effects may emerge over time. Your conduct is aggravated by the breach of trust involved. You had a friendship with K's mother. She trusted you to take K to the park for a play date with your boys. Instead of it being a fun-filled, happy occasion for K, you used the opportunity to sexually abuse a young and vulnerable child whose mother had entrusted you with her care.

The reason that possession and distribution of child exploitation material is so serious has been stated many times by various courts. Child pornography offences put children everywhere at risk of sexual abuse. Possessing and viewing the material exacerbates and extends the abuse and exploitation of children. It is notoriously understood that children who are the subject of such abuse often experience irreparable damage and significant psychological harm. I also note that once you had distributed the images via the WhatsApp application you had no control over what the recipient may do with the images, or what response it may evoke within the recipient.

There are a number of factors to be considered in determining an appropriate sentence in this matter. The starting point is that in matters of this nature, general deterrence, denunciation and protection of victims is paramount. Whilst I accept in respect to the child exploitation material charges that the number of images and videos involved was not as significant as is often seen by these Courts, and the categorisation of the images and videos fell predominately towards the lower end of the scale, they nevertheless remain serious charges. Your sexual abuse of K has had a grave impact upon her. Given the circumstances of the entirety of your offending, a period of imprisonment must be imposed. It must be understood by you and the broader community that sexual abuse of children, in whatever form it takes, will not be tolerated and those who engage in such behaviour will be punished.

Troy Stevens, you are convicted of each count on the indictment. I order that the three mobile phones seized by the police be forfeited to the State of Tasmania. I am not satisfied that you do not pose a risk of committing a reportable offence within the meaning of that term in the *Community Protection (Offender Reporting) Act 2005* in the future. I therefore make an order directing that the Registrar cause your name to be placed on the Register and that you comply with the reporting obligations under that Act for a period of seven years from your release. I impose one sentence. You are sentenced to imprisonment for a period of two years and six months from 15 May 2024. I order that you not be eligible for parole until you have served one half of that sentence.