

THE KING v MATTHEW PETER STANFIELD
COMMENTS ON PASSING SENTENCE

3 APRIL 2025
PORTER AJ

Matthew Stanfield, the defendant, pleaded guilty on complaint in the lower court to four charges relating to child abuse material involving breaches of the Commonwealth Criminal Code, and he appears in this Court for sentence. There is one charge of using a carriage service to transmit child abuse material (count 2 on the complaint), a charge of using a carriage service to access child abuse material (count 3 on the complaint), a further charge of transmitting (count 4) and one charge of possession of child abuse material, obtained or accessed using a carriage service (count 5). The offending came to light following an execution of a search warrant at the defendant's home on 24 January 2024. Police took a mobile phone being held by the defendant. This phone was PIN protected and was unlocked using the PIN provided by the defendant. There was no issue that it was the defendant's phone. The web browser history showed use of the TOR browser on the device. TOR is an open source software that enables anonymous communication. It directs internet traffic via a free, worldwide, volunteer overlay network that consists of more than 7,000 relays, and its use makes it difficult to trace a user's internet activity. As to counts 2 and 3, starting on 19 October 2023 the defendant engaged in depraved conversations with an apparent female, who was using the first name "Cindy" and who stated she was from Germany. They used a platform known as "Mega Chat". The defendant's screen name was "JJ". Mega is an encrypted cloud storage service, focused on security and privacy, which often comes to law enforcement notice due to the storing of significant quantities of child abuse material and sharing of that illegal content. It has a chat function which provides secure communications with end-to-end encryption for web browsers and mobile apps. Cindy told the defendant she liked to show her body and liked photos and videos. The conversation turned to girls or women performing oral sex on young boys. The defendant asked if Cindy had anything. On three occasions between 24 October and 29 October, Cindy sent the defendant a total of five images, mostly of pre-pubescent females exposing their genitals, and one with a girl inserting a toothbrush into her anus. Twice, on 29 October, the defendant sent Cindy child abuse images. There were firstly two images of girls aged between 4 and 6 years naked in a shower, and then 12 images of pre-pubescent girls with the focus on their vaginas.

As to count 4, between 29 October 2023 and 22 November 2023, again using the Mega Chat medium, the defendant engaged in another depraved conversation with an apparent female using the first name "Mel". During this conversation, the defendant told Mel that the platform was secure and that he has special fun with his two daughters. The conversation revolved around sexual activities with young girls and concluded on 22 November with the defendant sending a video of an adult male penetrating a child, approximately 8-10 years of age. As to the remaining count of possessing or controlling child abuse material obtained or accessed using a carriage service, the defendant's Mega account and associated email account contained images and videos of child abuse material. The defendant was in possession of 12 files, being six images and six videos. Some of these files were the same as the files transmitted or accessed during the chats with Cindy and Mel. Examples of the child abuse material located are as follows. There was a 22 second video of a naked female, approximately 8-10 years of age, exposing her vagina and masturbating for the duration of the video. There was also a 33 second video of a naked female child, approximately 5-6 years of age, exposing her vagina and masturbating for the duration of the video. After execution of the search warrant, the defendant declined to be formally interviewed.

The defendant was aged 48 at the time of the offending, now 49, and has no relevant prior convictions. He is a married man with two children. In fact, he has a son and daughter, six and eight respectively. The family lives with his parents, the family having located to live with the parents in September 2019. I have the benefit of a report from Jeffrey Cummins – a consultant psychologist, a letter from Carolina Bustos – a treating psychologist, along with a number of other supporting documents, a report from Community Corrections and the submissions of counsel. The defendant is a qualified electrician and currently in full time employment. He is the carer for his wife, she having suffered three strokes in the period since 2010-2011, and she requires continual medication and has mobility problems. He also acts as what is described as an unofficial carer to both his parents, who are in their mid to late 70's, and who also have not insignificant health and mobility problems. As it is put in Mr Cummins' report, the defendant expresses the reality for him as being an unpaid carer for three people and a financial provider for six.

The defendant reported to Mr Cummins that he had been sexually abused when he was about 6 or 7, through to when he was 12 years old, by a girl who used to babysit him and who was about five years his senior. Initially, she treated him cruelly and then started to do sexual things to him and told him he was not to tell anyone. Mutual masturbation progressed to sexual intercourse. The defendant was also the victim of an anal rape when he was about 14 and living with his grandfather. The perpetrator was a man who lived next door. He was injured as a result of this assault and bleed for about three days, having to lie to his grandmother about how he had injured himself. He completed Year 12, but found he was more skilled with his hands and so commenced and completed an electrician's apprenticeship with his father. He has been self-employed for periods, but more recently has been in the employment of a company. That enables him to care for his wife and parents. Mr Cummins reports that for the first time in the defendant's life, the defendant is receiving mental health treatment, at the moment from Ms Bustos, having commenced that treatment in late February 2024. His intention is to continue with those sessions and receive offence specific treatment, and treatment in relation to the emotional impact of him having been sexually abused as a child and teenager. Mr Cummins' opinion is that the defendant is suffering from symptoms of a Major Depressive Disorder from when his wife suffered her first stroke, about 15 years ago. He has been suffering with that condition to various degrees, since then. Mr Cummins' view is that it is very probable there is a realistic nexus between the defendant's offending and him being sexually abused. This contributed causally to some degree to the commission of his offending in a sense that it caused him to behave in a disinhibited manner. His ability to make appropriate judgments and to make calm and rational decisions were impaired. It seems that the defendant's interest in the material was not so much adults doing things to children, but children doing things to themselves. Mr Cummins emphasises the defendant regarded his focus as being one of curiosity and somehow reflecting his desire to understand more about his sexual abuse as a child. His current risk of committing further sexual offences has been assessed as low to moderate, trending towards low. Lastly, Mr Cummins notes that the defendant has expressed guilt, regret, shame and embarrassment. The short report from Ms Bustos, dated 19 November 2024, confirms 12 psychological sessions, with the defendant being insightful and well engaged. Psychological support has been directed to address the traumatic memories, and to put in place distress tolerance skills and self-care strategies. To the probation officer, the defendant referred to his conduct as a stupid mistake and said he will never repeat the behaviour. The report says counselling has helped him to work through his childhood trauma. To the officer, he accepted full responsibility for his actions, recognizing that the crimes are not victimless ones, and he acknowledged the need for punishment. I also have supportive letters from the defendant's wife, and his parents, written with full knowledge of the charges, with those letters confirming

his good, loving and supportive character, and the exceptional role he has played as a support for his wife and father to his children.

The grave evils of accessing, possessing and transmitting child exploitation material have been stated many times. These are indeed not victimless crimes. The production of such material involves the exploitation and abuse of children somewhere in the world. The damage done is often profound. Possession and viewing exacerbate and extend the abuse and exploitation. Access and possession tend to create a demand for its production. Offending is hard to detect and images are very difficult to remove from the internet once made available. A critical aspect of transmission, as occurred in this case, is that the sender does not know the circumstances of the recipient. They may well be prepared to act on their inclinations, be encouraged by the receipt of the material and attendant conversations and may have access to children. It is very well established that denunciation and general deterrence are the prominent factors in determining the appropriate sentence. Previous good character is of little weight. In general terms, what determines the seriousness of this sort of offending relates to the nature and content of the material, the number and ages of the children involved, the gravity of depicted abuse, including the extent of cruelty and physical harm. It is also established that although quantity of the material is a relevant consideration, it is the nature of that material which is more determinative.

As to the matters requiring consideration under s 16A of the *Crimes Act*, I say as follows. In this case, a low number of images and videos is involved. The total number of images is 25, with seven videos. As previously stated, some of the six images and six videos, the subject of the last count, were the same as were involved in the preceding counts. It must be said that the bulk of the material is at the lower end of the scale of seriousness in terms of what it depicts, although still abhorrent. However, the context of the exchange of these images and videos, that in the conversations in which those exchanges took place, is very concerning. Transmission, of course, is also very concerning. The highest level of gravity is the video of an adult male penetrating a child, sent by the defendant to the person "Mel". The offending, as it related to transmitting and receiving child abuse material, occurred over about a month to 22 November 2023, not an extended period, but the possession persisted until 23 January 2024, about 14 months later. I accept that the defendant has expressed remorse and contrition, which is linked to the next matter of consideration; the fact of the pleas of guilty and their timing. It is significantly in the defendant's favour that he pleaded guilty to the offences before this Court on his first appearance in the Magistrates Court on 29 October 2024. It might well be said that the case was a strong one, but the timing of those pleas shows an early acceptance of responsibility and has utilitarian value in that obviates the need for a jury trial. In terms of co-operation with law enforcement agencies, the defendant promptly supplied his PIN to unlock the phone. The evidence against him was on that phone. Declining to be interviewed might be considered a lack of co-operation but it was his right. He signed an authority for police to assume his online identity, which enabled police to secure the Mega account, although it was not used in any wider investigation. I note that an order to provide information or assistance under s 3LA of the *Crimes Act* was made by a magistrate on 22 January 2024 and what was ordered to be done, arguably did not extend to assuming an online identity, hence the consent, which is expressed to be a voluntary authorisation to take control and use internet online identities and accounts.

The defendant is entitled to some favourable consideration given the effects of the sexual abuse he experienced as a child and young person, and the depression he has suffered. Mr Cummins' opinion as to a degree of causative link between those experiences and this offending, is not in

dispute. It might have affected the defendant's ability to make appropriate judgments, but I am not satisfied that the defendant did not fully appreciate the wrongfulness of what he was doing. His self-motivated seeking of psychological assistance strongly suggests there are good prospects of rehabilitation, particularly if those measures are continued. Next, I am satisfied that immediate imprisonment would have a significant impact, not only on the defendant, for obvious reasons, but on his family and dependents which, in turn, no doubt would add to the defendant's distress. He is the carer for his wife and effectively cares for his parents. He has dependent children. I note that hardship to family, as contemplated by s 16A(2)(p) of the *Crimes Act* does not have to be exceptional to be taken into account. A final factual matter to be mentioned relates to extra-curial punishment. Counsel for the defendant informed the court that since being charged, the defendant has received threatening notes and his van was vandalised by way of large painted letters, reading "Daddy is a dead man". It was put, and I accept, that these threats have greatly shaken and distressed the defendant. The message is obviously directed to his children, who saw it and asked him about it. In addition, he has been stood down from his volunteer position as a firefighter, and his working with vulnerable persons clearance has been revoked. He lives in a small community and suffers the ignominy and shame of these charges. A further relevant factor is that I will be making an order under the *Community Protection (Offender Reporting) Act*.

That leads me to a consideration of s 20(1)(b)(iii) of the *Crimes Act*. That enables a court to sentence a person to imprisonment, but direct their release upon security, with or without sureties, by a recognisance or otherwise, and which release can occur immediately. But in a case where at least one of the offences is a Commonwealth child sex offence, that is only if the court is satisfied there are exceptional circumstances. The law is that a combination of factors, each not in itself exceptional, may, in combination, constitute exceptional circumstances within the meaning of the provision. The greater the objective seriousness of an offence, the more difficult it is to establish exceptional circumstances; see *R v Bardel* [2024] NSWCCA 75 at [61] and [63]. Given the cumulative nature of the factors that operate in the defendant's favour and given the criminality and moral culpability of the offending as I have discussed, I am satisfied that there are exceptional circumstances in this case. The defendant has been assessed as suitable for community service, but I do not think that sanction is sufficient to achieve the required level of deterrence and condemnation, particularly given the transmission charges. At the same time, I place emphasis on the defendant's rehabilitation. I propose to order imprisonment, but with immediate release on conditions.

Mr Stanfield, I have set out the facts, your personal circumstances and all the relevant considerations that are required to be made, and my observations. I believe you understand the seriousness of this type of offending and the consequences for offenders. My orders are as follows. You are convicted and sentenced to ten months' imprisonment. I order your immediate release upon you giving security by recognisance in the sum of \$1,000 to comply with the following conditions for a period of 18 months. In that period:

- (a) you must be of good behaviour;
- (b) you are to be under the supervision of a probation officer with Community Corrections appointed in accordance with this order;
- (c) you are to obey all reasonable directions of that probation officer;
- (d) you are not to travel interstate or overseas without the written permission of the probation officer;
- (e) You must undertake such treatment or rehabilitation programs that the probation officer reasonably directs.

(f) you will have to report in person by telephone, to a probation officer at 75 Liverpool Street, Hobart by 5pm tomorrow.

Given Mr Cummins' opinion as to the risk of further sexual offending, I cannot be satisfied that there is no appreciable risk. That means I will have to make an order under the *Community Protection (Offending Reporting) Act*. I order that your name be placed on the register and that you comply with the reporting conditions for a period of two years.