

STATE OF TASMANIA v NICHOLAS TRENT CONRADES
COMMENTS ON PASSING SENTENCE

16 APRIL 2025
SHANAHAN CJ

****AMENDED 2.6.2025****

Nicholas Trent Conrades you have pleaded guilty to one count of offending against s 474.22A(1) of the *Criminal Code* (Cth), that is, possessing or controlling child abuse material obtained or accessed using a carriage service.

On 22 June 2022 you were found in possession of 90 electronic files, being 85 images and 5 videos containing child abuse material on a Lenovo tablet. You had obtained the files via the Kik Messenger application.

You were born on 6 November 1988, and at all material times you were living at [address stated] in Glenorchy.

On 21 June 2022 police obtained a warrant to search the premises at [address stated] pursuant to s 3E of the *Crimes Act* 1914 (Cth). That warrant was executed by police the following day, on 22 June 2022 when officers attended [address stated] they found you in bed in a shed on the property. At or about 6:57am on that day police cautioned you and informed you of your rights under Part 1C of the *Crimes Act* (Cth).

As a result of that search police seized a Lenovo tablet which was located on the bedhead in the shed and an Opel mobile phone with a cracked screen located on the floor of the lounge area in the shed.

At or about 7:24am police accessed the Lenovo tablet and found a "safe folder", and within that folder police observed child abuse material. A safe folder is a feature designed to provide a secure location for storing files by encrypting any files moved into the safe folder; that is, transforming them into an unreadable format. A safe folder is not accessible until a PIN or a swipe pattern is set up, and to do so, the user needs to select a security method which can be different from the device's primary unlock PIN.

To move a file into the safe folder, a user selects the desired file within the files by Google application and then selects an option 'move to safe folder'. Once a file is moved into the safe folder, it is no longer visible or accessible from its original location. Additionally, the file will no longer display in search results on the device. Files that have been moved into the safe folder are only revealed and accessible, that is decrypted, once the correct PIN or swipe pattern is entered. This ensures that only an authorised user can view the stored content.

During execution of the warrant and whilst under caution, you participated in a record of interview with police and made admissions. In particular, you agreed that the shed was the only place at which you stay, and that you never go into the main house. You pointed police to the electronic devices, both the Lenovo tablet on the bed and a black mobile phone on the bedside table, and you said, "That's my phone and my tablet". You also pointed police to a broken Opel mobile phone, and said, "On my work jacket on the floor over there."

You told police that you are the only person who has the password to access the Lenovo tablet, nobody else knows about the PIN code. You agreed that you knew why police were there and that you understood that they were looking for child abuse material.

You told police that they would find about 20 photos in the Lenovo tablet in a safe file. You showed police how to navigate to the safe file on the Lenovo tablet. You confirmed to police that the safe file and Lenovo tablet had the same access PIN codes.

Police asked you about the child abuse material that they had observed in the safe folder. You said about two weeks before, you were chatting with a person in another country on Kik Messenger, when that person had asked you if you wanted to buy some photos. You told police that you said no, but that person sent the photos to you anyway. The photos were all in one file. You also told police, "I opened it, swiped through and I went, "What the fuck", and that you remembered seeing two pictures of children: "I looked at two. I swiped the first one, seen the second one and then I got out – it and didn't look at anything else. The pictures you saw showed children involved in sexual acts with adults. You observed to police: "It's illegal and fucking downright disgusting." You told police that you downloaded the photos from Kik Messenger and put them in the safe file because you "Didn't want anyone else seeing them 'cause I'm not that sort of person".

You told police that you were planning to use the photos to blackmail the person who had sent them to him, and that you said to the person who supplied them: "How about you pay me or I'll use 'em and call the cops on ya".

You and the person you were planning to blackmail argued backwards and forwards. You asked the other person for a thousand dollars, he said he did not have the money. You were asked whether you had made any attempts to report the matter to police, you said you did not know what country the person was in, and so you did not know who to contact. You say you tried to Google the person's IP to see what country it was in but you couldn't find it. You said that the only reason the photos were still in the Lenovo tablet was because you had forgotten about them. That is an explanation that this Court finds hard to accept.

Kik Messenger is a free instant messaging application which allows registered users to exchange text messages, photos, videos and other data. The application is available on both Android and Apple operating systems.

When police asked you about your Kik Messenger account you said that you had had a Kik Messenger account for about three years, and that you had deleted the Kik Messenger application from the Lenovo tablet and your Kik Messenger account on the day when the person sent you the photos found in the safe folder.

Police arrested you at or about 8.04am on the 22 of June 2022, and the search warrant was concluded shortly thereafter. Police seized both the Lenovo tablet model number HGR2803M and the Opel mobile phone.

The following day, police tried to forensically extract data from the Lenovo tablet using the Cellebrite UFED software; however, the software was unable to extract data stored in the safe folder due to its encryption.

On 24 June 2022, police video recorded a manual triage or file restoration process whereby they examined each file in the safe folder, recorded its metadata and then returned it to its original stored location in the Lenovo tablet. Following that process, police made a further attempt to extract and process data in the Lenovo tablet using the same software and this time the extraction of all the files that were previously stored in the safe folder were successful.

On 27 June 2022, police converted the extracted and processed data from the Cellebrite UFED to a JSON file, then used the Griffey analyser to categorise those files alleged to be child abuse

material. You had 85 image files and five video files stored in the safe folder within the Lenovo tablet containing child abuse material. Each of the 85 images and five video files was unique, there were no copy files.

Police have categorised the child abuse material using the Interpol Baseline Categorisation System. All five of the child abuse material videos that you possessed fell within Category 1. Examples included a one-minute and 21 second video of a female child approximately 10 years old touching her genital region, and another a 23 second video of a female child, of a similar age, performing fellatio on the penis of an adult male.

Eighty two of the child abuse material images possessed by the offender fall within the same category. Again by way of example is an image of a naked female approximately 10 years old lying on her side. The child has a blindfold across her eyes, her arms are tied behind her back with purple ropes and her legs are similarly tied. With one hand she is inserting a sex toy into her own anus. The second is an image of a child approximately four years old holding an adult penis. The third is an image of a female child approximately five years old performing fellatio on an adult penis. The fourth example is an image of a female child approximately nine years old, naked from the waist down being vaginally penetrated by an adult. Three of the child abuse material images possessed by the offender fall within category 2.

Category 1 relates to material depicting real children in a prepubescent physical stage, so approximately under 13 years of age, and the child is involved in a sexual act or the material is focussed on the child's anal or genital region.

The maximum penalty for the offending is 15 years' imprisonment and/or a pecuniary penalty of \$199,800.

You have no relevant criminal history.

I am obliged to impose a sentence of imprisonment that is appropriate in all the circumstances of this case.

In this case your stated motivation for the offending is somewhat unusual in that your explanation to police was that you intended to use the illicit material to blackmail the person who provided it to you. It is for that reason that the Court finds it hard to accept your explanation to police that you had simply forgotten about the photos stored in the Lenovo tablet.

You concealed and retained the material the subject of this prosecution and your motivation was unlawful. The Court needs to consider how that motivation is to be taken into account, along with all the circumstances of this case, when imposing a sentence for the offending.

The nature and circumstances of the offending included the fact that your offending was not part of a continuing course of conduct beyond the receipt and storage of the material seized, the 90 files, being 5 videos and 85 images.

Whilst the offending is recorded as being the date of the search, the material had been stored by you for a period.

The categorisation of the vast majority of the 90 seized files was Category 1, except for 3 of the child abuse material images which fell within Category 2.

In this case a majority of the files depict children around 10 years old, and some depict children as young as 2 years old.

Some of the files depict particularly depraved abuse of children, which is an aggravating factor, for example:

- Children between 7 and 10 years performing penetrative acts on adults, or being subject to penetrative anal or vaginal sex by adults;
- Children with semen visible on their mouths, face or genitals – including one toddler-aged female child; and
- Children engaged in penetrative solo masturbation, including two female children aged about 9 or 10.

It is accepted by the Crown that there is no evidence that you transmitted or otherwise shared the files that were seized, or that the offending involved any particular planning or sophistication. In that regard I have noted that the images were saved in an encrypted form in the safe folder. Whilst the Crown accepts that you did not profit from the offending, it appears from your explanation to police that you intended to do so by blackmailing the person providing the files.

It is put in mitigation on your behalf that the number of files is small in comparative terms and that the possession of the seized material by you was not for a purpose to which the provisions under which you are charged are directed. The Court accepts that the penal provisions here are primarily directed at child exploitation and abuse and by implication the sexual gratification of those who possess or control child abuse material, and those who seek to profit thereby. The retention of the videos and images in this case also sought to exploit the videos and images of children albeit for a different purpose, that is the blackmail of the provider. That purpose is also caught by the offence charged, albeit that is a matter to which the Court has had regard in sentencing.

In that regard, it is submitted that it reduces your criminality and the sentence that the Court can impose because it is unusual and not generally the reason why images are placed, and kept, on a computer.

You were aware that the 90 files you retained contained videos and images that were illegal and morally wrong. You were aware that the material depicted children in sexual acts with adults. You intended to leverage your possession of this material for your personal advantage. Whilst you state that you had the files stored in the safe folder to avoid anyone else seeing them your retention of this material disregarded the safety dignity and emotional well being of the children depicted in the videos and images.

I take into account your plea of guilty, it has utilitarian value. You faced a particularly strong prosecution case.

The Crown acknowledges that you cooperated with police.

You were 33 years of age at the time of the offending and you are now 36.

It is now some two and half years since the offence was committed and there has been no re-offending. The absence of re-offending is relevant to the prospects of rehabilitation. I have proceeded on the basis that there is no evidence before the Court that you have a prurient interest in children. On that basis the absence of re-offending is significant.

You were born in Tasmania and from the age of six you have been moving backwards and forwards between Tasmania and Queensland, where your parents relocated. It is said that you are also somewhat isolated in Tasmania as all your extended family, essentially, apart from your partner reside in Queensland, and that has been difficult as you have not been able to visit them.

You have had relatively consistent employment, since leaving school after year 12. That has included various labouring positions. You completed two years at Swinburne University, in microbiology, but did not finish that. You have recently experienced difficulty in terms of your employment because of the time spent in custody.

You have also experienced difficulties with alcohol in the past but you have now significantly addressed that, albeit you continue to drink approximately once a week. In that regard you have previously undertaken Holyoake counselling for alcohol abuse, but I understand those issues have now resolved.

Your partner of four years supports you. You remain in that relationship. While you were in custody your partner was able to secure a house in private rental accommodation. However, when you were to be bailed the owners of that property would not have you reside at that address. That has meant that you have been residing at Flint House, accommodation of last resort, and since you were bailed you and your partner have had to maintain the two properties, and that has been a significant impost in terms of his finances as a result of this charge.

Whilst your partner continues to support you these proceedings have put pressure on you both, particularly in respect of the maintenance of two properties, and I am told your partner has also suffered financially as a result of your offending. You have found the last three years very stressful, and it has put pressure on your relationship as a result of the factors that I have referred to.

Whilst in custody you missed his brother's funeral in Queensland, you were no able to watch it online. I am told that, as a consequence, your bail conditions have continued to act as a reminder of the seriousness of the offending, and acted as a continual reminder of a reason not to again put yourself in a vulnerable position to this type of offending. You no longer use electronic devices in the way that you did. You have a phone that does not have access to the internet, and you are very mindful now of avoiding anything that can put you in danger of any types of charges such as the ones that you now faces. Of course this charge emerges primarily out of your own decision-making to retain the videos and images on your tablet.

I am told, through your counsel, that there are significant reasons why you can now see the evil of this type of offending, and that there have been some elements of personal punishment throughout the course of this matter, which again reinforced the nature of the charges and the seriousness of them, and acts as a deterrent for you ever to be involved in this type of matter again. I have accepted that as an expression of your remorse and a submission that you are unlikely to re-offend.

The seriousness of the charge meant your bail conditions were stringent when you were placed on bail, and that in and of itself, appears to have had a significant impact upon your life. Your counsel submits that you were originally remanded on this charge for a period of 43 days in custody, and then there has been a further 27 days in custody. I have accepted the calculations that you have spent 70 days in custody for the purpose of sentencing, albeit the Crown relied on a figure of one week less.

It was accepted by your counsel that a period of imprisonment is almost inevitable in a case like this, but that I could take into account time served and adopt a course that does not return you to custody. That submission was based on the time in custody and the unusual nature of the offending itself.

I note that the Court does not have the power to release you on a recognisance release order unless satisfied that there are "exceptional circumstances". Despite the unusual motivation for your offending the Court is not persuaded that there are "exceptional circumstances" in this instance.

I sentence you to a term of 4 months' imprisonment backdated to 5 February 2025 to take into account time served, calculated at 70 days.

I also impose a recognisance release order that you are to be released after serving 3 months' and 29 days imprisonment upon you entering a recognisance of \$1000 to comply with the following conditions:

- 1 You will be of good behaviour for a period of one year;
- 2 You will be subject to the supervision of a parole officer during that period;
- 3 You will obey all reasonable directions of the probation officer during that period;
- 4 You will not travel interstate or overseas without the written permission of the parole officer;
- 5 You will undertake such treatment or rehabilitation programs that the probation officer reasonably directs during this period.

I direct that your name be placed on the Register in accordance with the *Community Protection (Offender Reporting) Act 2005* (Tas), and you must comply with the reporting conditions for a period of one year after your release.