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THE SUPREME COURT OF
THE NORTHERN TERRITORY

SCC 22332970

THE KING

and

GLEN ANTHONY BEDNARCZYK

(Sentence)

KELLY J

TRANSCRIPT OF PROCEEDINGS
AT DARWIN ON TUESDAY 12 NOVEMBER 2024

Transcribed by:
EPIQ

HER HONOUR: Glen Anthony Bednarczyk, you have pleaded guilty to possessing or controlling child abuse material in the form of data held in a computer or data storage device, using a carriage service to obtain or access the material. This offence carries a maximum penalty of imprisonment for 15 years.

I am going to talk a little bit about the facts.

On 4 August 2023, the Australian Federal Police - Australian Centre to Counter Child Exploitation Child Protection Triage Unit received four reports from the United States of America National Centre for Missing and Exploited Children. The reports related to the upload of 15 child abuse material media files to the Microsoft platform peer-to-peer client Bing Image. The uploads were, in short, associated with your mobile phone number.

At the time of the offending, you lived in Karama with your mother.

On 13 October 2023, police went to your home to execute search warrants for your person, your car and your residence. Police met you walking to your car, which was parked in front of your home. They told you they had search warrants, and you said words to the effect of, "You might as well arrest me now."

During the execution of the search warrant, police seized a number of mobile phones and digital storage devices, which were forensically examined and were found to contain child abuse material. Further devices were taken by police for later examination.

Overall, nine devices belonging to you were found to contain child abuse material and were seized either during or following the search warrant. During the execution of the search warrant, you participated in a recorded conversation with an Australian Federal Police investigator, during which you said a number of things.

- There is child porn on a hard drive in your bedroom.
- You view the child porn in the bedroom by yourself.
- You have a problem.
- You would view the material once a week.
- You are not sexually attracted to children.
- You occasionally masturbate to the material.
- If you did not have the internet, you would not be in this situation.
- You are addicted to all porn, not just child porn.

- You have never sent or received images from anyone, you just search and download it.

These are partial admissions only, and the last one is, in fact, not true, because you have a previous conviction for both soliciting and sending child abuse material.

You provided PIN numbers to all your devices on request by police. Police arrested you and charged you with possessing child abuse material.

The nine devices were extracted and reviewed by police. Eight of the devices, this is excluding the Toshiba laptop, contained about 196,481 files. Given the high volume of data and in order to minimise the viewing of child abuse material by police, police did not review and categorise all of the files on those devices. They examined approximately 16,640 files; 3,540 of these were categorised as child abuse material. That is around about a fifth of the material they examined.

The child abuse material possessed by you depicted erotically-posed victim children ranging in age from about 3 to 16 years, clearly displaying their breasts, vaginas and anuses. The material included videos depicting the anal, vaginal and oral rape of both male and female victim children ranging from age 3 to 16 years by both male and female adult offenders.

The files also included young female children engaging in sexual acts of indecency with animals and sex paraphernalia. A number of files depicted young females tied up and/or blindfolded. The files were clearly and accurately labelled with the ages and descriptions in their titles. A sample of the videos included bestiality, incest, the forced rape of male and female children and the humiliation of those children with degrading file titles, some of which are listed in the Crown facts. That is exhibit P1.

The Crown facts list each of the devices and give the number of child abuse material images and videos on each one, out of those that were selectively viewed, and descriptions of some sample files.

I am going to talk a bit about you.

You have prior criminal convictions, which include convictions for the Commonwealth offences of transmitting child pornography, soliciting child pornography and accessing child pornography in 2017 and a conviction in 2010 for illegally importing what you told Associate Professor Sullivan was prohibited pornographic videos.

I have read a psychiatric report of Associate Professor Danny Sullivan, which contained some information about your background. You were born in Fremantle.

Is there a correction that needs to be made before I proceed?

MS OZOLINS: We're just confirming the dates that your Honour said "2017 and 2019."

HER HONOUR: No, I said, "2017."

MS OZOLINS: So the date on which he was convicted in the Darwin Supreme Court of offences - - -

HER HONOUR: Was 2019.

MS OZOLINS: - - - 19. Yes.

HER HONOUR: But the offence dates were 2017.

MS OZOLINS: Yes.

THE ACCUSED: Not correct.

HER HONOUR: Yes. Thank you.

THE ACCUSED: Wasn't on 2017. I was arrested in 2018 and I was charged in 2019. It's the correction I was saying before. There was no charge in 2017, was all charge.

MS WILD: Can I just speak to my client?

THE ACCUSED: It was all together.

HER HONOUR: Yes, of course.

THE ACCUSED: That's what I tried to make - - -

HER HONOUR: I would like to get this straight before I proceed.

THE ACCUSED: That's what I tried to make board last time I went to court and we handed up the extra files.

HER HONOUR: I understood, from the - - -

THE ACCUSED: There's nothing in 2017.

HER HONOUR: Just be quiet for a moment, Mr Bednarczyk. Yes. Your lawyer will come over and clarify that.

MS WILD: Thank you for that time, your Honour. We had concern that the offence date was from 2017, he was arrested in 2018. There's one court appearance, for which he was dealt with in 2019.

HER HONOUR: Yes. That was what I thought.

You were born in Fremantle, Western Australia. Your parents moved from Western Australia to Darwin in the aftermath of Cyclone Tracy. Your mother worked as a nurse and your father as a plumber.

Your parents separated about 25 years ago, and you remained living with your mother. Your father re-partnered with a woman who had adult children, but neither of your parents had further children after the separation. Both of your parents are still alive and you have an older sister who lives in Darwin.

You went to primary school in Parap, Ludmilla and Malak and secondary school in Casuarina and Sanderson high school, and you completed year 12. After leaving school, you started a diesel mechanic apprenticeship through Charles Darwin University but after about six months you broke your ankle and you were unable to complete the practical part of the course.

You worked briefly in retail, then building trailers, reconditioning automotive engines and stripping car parts. You told Associate Professor Sullivan that, at one stage, you were unemployed for a few years and were not highly motivated to work during that time, but later, you worked as a courier, as the in-house mechanic for taxi fleets, delivering pizza, installing suspensions and various and sundry other jobs.

You have not had any significant unemployment since your early 20s and you have a good history of employment. You are not currently in a relationship and you do not have any children. I am told that, in your spare time, you enjoy playing eight ball, which is pool, and you represented the Northern Territory in this game and you enjoy rebuilding cars.

While you have been on remand for these offences, you have been housed on protection in a single cell because of the nature of your offences. Because you were on protection, you told Associate Professor Sullivan it took some time to obtain access to books, television and radio, but that you have now got activities to occupy yourself during periods of lockdown, you are working as a unit cleaner and you receive visits from your parents and sister about once a month.

THE ACCUSED: I'd like to correct that in one way - no - your Honour. I am in a single cell 'cause I'm actually employed. You don't get a single cell unless you're employed, and it wasn't because of my offences that in - I'm in protection because I'm in protection. Normally get doubled-up. The only reason I'm in a single cell is 'cause I'm actually a cleaner and I don't have - like have a single cell.

HER HONOUR: All right. Thank you.

You also told Associate Professor Sullivan that you did not receive sexual education at school, as far as you are aware. You learnt about it through pornography and that you have always been interested in pornography. You told

him you found pornographic playing cards belonging to your father when you were in your teens and went on from there.

You told the associate professor about your sex life, saying you had had a few one-night stands, a couple of short relationships and one relationship which lasted some ten or 11 years, finishing in your 40s.

You also told him you would spend one to one and a half hours a night watching pornography after smoking cannabis, usually on your phone and occasionally masturbated to this, and that around 10 percent of the pornography you viewed was child pornography. These are the things you told the associate professor.

You denied having participated in chat sites or swapping images, and said that the information you found was all online and free. But as I say, and the professor pointed out, this is contradicted by your convictions for sending and soliciting child pornography in 2017.

You acknowledge that, over time, you became somewhat habituated and required more extreme pornography in order to maintain an interest. You denied to the associate professor that you had ever had sex with minors or engaged in bestiality yourself.

After your convictions in 2019, you were placed on the Australian National Child Offender Registry for 15 years. You say you had no concern meeting reporting requirements and restrictions. I should note that as a result of your previous findings of guilt and your current finding, you will be a reportable offender for life. You say you are willing to undertake treatment and you indicated that you would need to give up the internet.

You say these experiences cost you a lot of money and that you lost two jobs because of your pornography use, and you told Associate Professor Sullivan that you knew your conduct was wrong. In his report, Associate Professor Danny Sullivan stated that you have a clear and sustained interest in child pornography, particularly involving prepubescent female children and bestiality and that you would meet a diagnosis of multiple paedophilic disorder and of other specific paraphilic disorder, zoophilia.

He also stated that you have a longstanding cannabis use disorder and a tobacco use disorder, which are currently in remission in a controlled environment and that your cannabis use may be associated with pornography use.

Associate Professor Sullivan noted that you returned to pornography soon after the expiration of your last sentence, which is consistent with a strong drive for persisting with pornography use associated with deviant sexual arousal. I agree with the Crown submissions that you do not have good prospects of rehabilitation and your risk of reoffending is high.

I need to talk to you about some of the things I need to think about in sentencing you. The possession of child abuse material is a serious offence, as can be seen by the maximum penalties imposed. The production of this material involves the actual abuse of real children. And accessing these sites contributes towards providing a market for the material and the encouragement of the abuse. It is becoming increasingly prevalent and is difficult to detect.

The child victims are not only traumatised by the initial abuse they suffer, but may be re-traumatised over many years, knowing that the images of their abuse and pain are being viewed online by men like you for your sexual gratification. General deterrence and denunciation are important considerations in such cases. In your case, because of your prior convictions, personal deterrence is also important.

Under the *Crimes Act*, because you have previously been convicted of a child sexual abuse offence, I must sentence you to a minimum of 4 years' imprisonment. That mandatory minimum sentence of 4 years for this offence is a sentence for offences at the lowest end of the scale for offences of this kind. This offence is not at the lowest end.

The court, in sentencing you, has to have regard primarily to a) the nature of any image of a child that the offence involved, including the apparent age of the child and the activity shown, b) the need to deter similar behaviour by other offenders to protect children, and c) the prospects of rehabilitation, including the availability of any medical or psychiatric treatment to cause the offender to behave in a way acceptable to the community, d) the offender's antecedents, age and character, e) any remorse or lack of remorse, f) any medical, psychiatric, prison or other relevant report and any other relevant materials.

In assessing the objective seriousness of the offending, I am obliged to have regard to a number of matters:

- Whether actual children were used in the creation of the material, and they were;
- the nature and content of the material, including the age of the children and the gravity of the sexual activity portrayed, and I will come back to that;
- the extent of any cruelty or physical harm occasioned to the children that may be discernable from the material;
- the number of images or items of material and the significance lying most in the number of children depicted, and in a case of possession, the purpose and whether it was for dissemination or otherwise;
- the number of people to whom it was transmitted, and;

- a number of other things that are relevant only if this material is being disseminated.

I consider the objective seriousness of this offending to be around the mid-range because of the depraved nature of the images, the young age of many of the children who were abused, the gravity of the sexual activity depicted and the number of images you accessed.

The videos that you possessed depicted the anal, vaginal and oral rape of both male and female children as young as the age of 3; this is by adult offenders, young female children engaging in acts of indecency with animals and sex paraphernalia, young females tied up and/or blindfolded and videos, including bestiality, incest and the forced rape of male and female children.

There was also the humiliation of those children with debauched and degrading file titles, and a number of internet searches were identified, including searches for very explicit bestiality images. And I take into account that there were at least 3,540 files that you possessed.

Your lawyer submitted that this offending was at the lower end or the lowest end of the scale of seriousness. I do not accept that. Your lawyer also submitted that you were remorseful and that you made full and frank admissions and had a high degree of cooperation with the authorities, and mentioned in particular cooperation with the forfeiture of these devices.

I do not accept that either. You made partial admissions. You did cooperate to the extent of providing PIN numbers on request. The forfeiture is automatic. You had no choice in relation to that. And I do not accept that you are remorseful. You have done this before, and you did not seek counselling or help. You reoffended not long after your release.

And in speaking to the writer of the s 103 report, you minimised the offending. And I am going to quote from that s 103 report. The author says, "Mr Bednarczyk acknowledges his wrongdoing but tends to minimise the seriousness of his offences. He has expressed the view that since his offences did not involve direct victims, the severity is reduced. He has compared his crimes to more serious offences, such as murder and stated that he does not believe he should be incarcerated alongside real criminals."

Well, you are wrong. Real children were, in fact, raped, humiliated and hurt to make this material for your sexual gratification and that of other men. And their suffering continues into the future, knowing, as I said, that men like you are watching their pain and degradation. This is a real crime.

The prosecution has submitted that the objective seriousness of this offending is between the high low and mid-range, and for the purposes of sentencing you, despite my view that it is mid-range, I accept that characterisation.

I am going to allow a reduction of 20 percent for your guilty plea and your cooperation with the authorities. Because of the characterisation of the offending as from high low to mid-range, I consider an appropriate starting point, before any reduction for a guilty plea, would be a sentence of 7 years' imprisonment. Allowing a 20 percent reduction, you will be convicted and sentenced to a term of imprisonment for 5 years and 7 months, beginning on 13 October 2023.

Because your sentence is in excess of 3 years, I am obliged to fix a non-parole period and not a recognizance release order. There is no minimum non-parole period specified under the *Crimes Act*.

I consider that the minimum time which justice requires you to serve in prison for this offence is 3 years. That is to properly reflect the objective seriousness of the offence, denunciation, punishment and general and personal deterrence. So I am fixing a non-parole period of 3 years, which still leaves 2 years and 7 months potential supervision in the community should you be granted parole.

I am obliged to explain to you that the purpose of fixing a non-parole period is to give you a chance to serve part of your sentence in the community under supervision to assist you to reintegrate into the community. And that if you are granted parole and you breach the terms of your parole order, the consequence is likely to be that you are returned to prison to serve all or part of the rest of the sentence.

And I am ordering the forfeiture, pursuant to s 23ZD of the *Crimes Act*, of the devices which were seized in connection with this offending and are listed in par 76 of the Crown's submissions.

Is there anything further?

MS OZOLINS: Nothing arising, your Honour.

MS WILD: No.

HER HONOUR: All right. And I do thank you both for your very helpful submissions and assistance in this matter.

Please adjourn the Court.
