In the Central Criminal Court

Dido Massivi (DM), Jennifer Hodge (JH), Novlett Robyn Williams (NRW)

Sentencing Remarks

I have to sentence you for the following offences. In your case, DM, for two offences of distributing an indecent photograph of a child and for one offence of possessing an extreme pornographic image.

In your case, JH, for one offence of distributing an indecent photograph of a child.

In your case, NRW, for one offence of possessing an indecent photograph of a child.

The nexus between the three of you is that you DM and you JH are partners and have been so for about 10 years. You, JH and NRW are sisters. You, DM, were a bus driver and had been so for in the region of 21 years. In the course of that employment you were part of a whats app group with other bus driver colleagues. The group was used as part of a lottery syndicate, and also to enable you, where necessary, to swap shifts. It was also used to send each other videos, including pornographic videos. In most cases this concerned lawful adult pornography, a quantity of such videos being found on your phone, when it was interrogated following your arrest.

However, that download revealed the presence on your phone of three videos the subject matter of this case, albeit all had been deleted.

Count 1 concerns a video of an adult Oriental female involved in penetrative or attempted penetrative sexual activity with two children aged around 7 and 12. It is of category A.

Count 2 concerns penetrative sexual activity between an adult female and a horse.

Count 3 concerns a young female of about five years of age performing oral sex on an adult male. It is also of category A.

The connection between the three of you is that the video in count 3 was sent by you, DM to you, JH who in turn sent it on to you, NRW.

The part that each of you played in these matters was different and I shall therefore deal with each of you separately.

DM, you were concerned alone in Counts 1 and 2. In Count 1, you sent on that video on 29 January 2018 on five separate occasions, probably to 5 different individuals but it could be that it was sent more than once to the same person, although there would be no logical reason for you to have done that.

In the case of Count 2, that was similarly sent on by you on five separate occasions, on 2 February 2018.

So far as Count 3 is concerned, that was also sent on by you on 2 February 2018, on three occasions, once to JH, once to a friend of yours by the name of Kingsley Okoye and on one further occasion.

Your defence on counts 1 and 2 was that you had forwarded these videos without having viewed them, and accordingly that you neither knew nor had cause to suspect that they contained the material that they did.

So far as Count 3 is concerned, you accept that you had viewed that video but contended before the jury that you had a legitimate reason for having sent it on, namely, in order to raise awareness and so that your partner would report it to her sister whom you knew to be a high ranking police officer.

Those defences were rejected by the jury.

One of the particularly serious aspects of the distribution of videos of this sort is that once having sent them on, you had absolutely no means of knowing or controlling what use might then be made of them or to whom they might then be forwarded.

I do accept and bear in mind in your case that this offending occurred over a period of a small number of days, that you were not the originator of these three videos, that you had not asked for them to be sent to you, and that you deleted them.

However, by the verdict of the jury it is clear that you were aware of all of this material on your phone, and albeit that it would have been inconvenient, you could have left the whats app group had you chosen to do so.

Moreover, there was absolutely no reason for you to send on any of this material and you could and should have deleted it immediately following its receipt.

That said, I note and accept the prosecution's observation in their Sentencing Note that you did not have a particular sexual interest in images of this type.

I note that the Sentencing Guidelines for Counts 1 and 3 indicate in the cases of distribution offences a starting point of three years imprisonment with a range of 2 to 5 years.

You are 61 years of age and a man of previous good character. As I have already observed, you were in the same employment, as a bus driver, for the last 21 years, but you have lost that job as a result of these matters, which I accept is a real penalty in itself.

The prosecution have submitted, arguably generously, but I am willing to accede to their submission, that I should view the gravity of your offending by reference to the Guideline pertaining to possession rather than distribution of material of this sort, which suggests a starting point of 12 months imprisonment with a range of 26 weeks to 3 years.

In the case of all 3 of you the prosecution further submit (para 17 of their sentencing note) that having regard to the Guidelines pertaining to the Imposition of Custodial Sentences that the appropriate range of sentence is between a low-level community order with unpaid work through to 12 months imprisonment.

They add that any sentence of imprisonment could be suspended with or without community requirements.

I have read your letter in which, to your credit, you selflessly take responsibility for the situation that your partner and her sister are now in.

The quantity of images with which your case is concerned, namely, three, is undoubtedly very small having regard to the number of images which cases of this type very frequently involve.

As against that, they were sent on by you on a number of separate occasions. Also, very young children were involved and it is the terrible damage caused to children as a result of becoming involved in videos of this sort that constitutes the gravity of this offending.

In your case, DM, bearing in mind the three counts of which you have been convicted, a sentence of imprisonment is inevitable, but having regard to the submissions of the prosecution and to the mitigation to which I have referred I am by a very narrow margin able to suspend that sentence.

The sentence on each count concurrently will be one of 18 months imprisonment suspended for 2 years, together with an order that you carry out unpaid work for 200 hours. (Explain what that means).

I turn next to you, **JH**. You are concerned in Count 4 alone. When you received that one single video from your partner, and had opened it, your reaction was to send it to all of your whats app contacts, a total of 17, including your sister. In each case you accompanied it with a message to this effect, “sorry had to send this, it’s so sad that this person would put this out, please post this and let’s hope he gets life”.

Your defence was that you had a legitimate reason for distributing the video. It is very apparent from the message that accompanied this video when you sent it on that you were disgusted by its content. However, the verdict of the jury in your case shows that you went about matters in the wrong way in your dismay that material of this sort was in circulation. There was no justifiable reason for you to have sent it on to all your whats app contacts, and

what you should have done was either to delete it straightaway or to report it to the police, as all of the people to whom you sent it, did.

I accept though that your issues with panic, anxiety and depression that were evidenced in the trial from a psychiatrist, may well have clouded your judgment in acting in the heat of the moment when you opened the video and became aware of its contents, and then sent it on.

I note also that an unfortunate effect of your conviction is that your relationship with your sister has almost certainly been destroyed.

You are 56 years of age and a woman of previous good character. You had worked for many years for Scope looking after children with mental and physical disabilities, You had undertaken that work with dedication and conscientiousness throughout but I am told that as a result of this case you lost your job, which in your case too is in itself a significant penalty.

I have no doubt that you are a thoroughly decent woman and that what you did on this occasion was for the best of motives, albeit it clearly amounted to a serious error of judgment.

Thus it is that your case is about as far removed from the sort of case contemplated by the distribution guideline (where sexual gratification is the invariable motivation) as any that one can imagine.

In your case I can see absolutely no necessity or justification for depriving you of your liberty, and I take the view that the justice of the case could properly be met by the imposition of a community order requiring you to do unpaid work for100 hours.

I turn lastly to you, **NRW**. The issue that arose in your case was whether or not you were aware on either the Saturday or the Sunday that your sister had sent you that video. My interpretation of the jury's verdict is that your assertion that you were not so aware, and only learned of that fact on the Monday morning following the phone call from your sister from Colindale police station, was rejected by them.

I accept, however, that your acquittal on Count 6 can only be explained by the jury being unable to be sure of the prosecution case that your motivation for failing to act, by reporting your receipt of the image from your sister, was in order to protect her.

Given the extreme reaction of your sister on receiving that video from her partner, I regard the idea that when the 2 of you finally spoke at 7 p.m. on the Saturday evening, that she had forgotten all about the video, as being utterly fanciful; and I am sure that by this time at the latest you were aware of the video being on your phone and in broad terms of its contents, albeit I accept that you never played it.

Moreover, I regard it as being equally far fetched that throughout all that time that you spent together on the Sunday, the video was never discussed between you.

The fact that you did nothing about it was a grave error of judgment on your part, especially given the fact that by dint of your job, and the seniority of your position, you knew the imperative of so doing and had the ready means at your disposal to act, as you yourself told the jury.

As the prosecution have submitted, this represents a serious aggravating feature; but that said, I regard your case as being less serious than that of DM, bearing in mind his involvement in distribution, and the fact he was convicted in relation to 3 counts.

I also note that this was an error of judgment from which you neither gained nor stood to gain in any way, which makes it all the harder to understand.

You have had a stellar career in the police force for over 30 years; that is amply demonstrated by the awards that you have received, the high rank that you achieved and the truly outstanding character evidence called on your behalf during the trial.

Against this background it is a complete tragedy that you find yourself in the position that you now do.

I bear very much in mind in your case the following:

1. You were in no way responsible for this video being sent to you;
2. It was in your possession for a relatively short period of time;
3. There is no question of you having it for reasons of sexual gratification;
4. The case concerns 1 video only;
5. Regardless of what penalty I am impose, the consequences to you of this conviction will be immense, in particular so far as your employment and career are concerned.

In all the circumstances and in accordance with the submissions made by the prosecution in paragraph 17 of their Sentencing Note, to which I have already referred, I am satisfied that the justice of your case can properly be met by the imposition of a community order requiring you to do unpaid work for 200 hours.

I should add that in so far as I have departed from the Sentencing Guidelines I do so bearing in mind what the prosecution have themselves indicated their view to be in their very helpful Sentencing Note, as well as having regard to the very unusual circumstances of this case, to which I have alluded, and which, in my judgment make this a case which is very far removed from the sort of case contemplated by the Guidelines.

ANCILLARY ORDERS.

H.H.Judge Richard Marks Q.C.

Common Serjeant of London.