

**IN THE GRAND COURT OF THE CAYMAN ISLANDS  
CRIMINAL DIVISION**



**Neutral Citation Number: [2025] CIGC (Crim) 20**

**Case Number: IND. 25 of 2025**

**THE KING**

**V**

**LUKUS MATHIEU RIVERO**

**Appearances:**           **Ms. Sarah Lewis, Counsel for the Prosecution**  
                                  **Ms. Prathna Bodden, Counsel for the Defence**

**Before:**                   **Hon. Justice Emma Peters**

**Sentence Judgment:**   **30<sup>th</sup> May 2025**

**SENTENCE JUDGMENT**

**The Facts**

1. The defendant has pleaded guilty to three counts of the Possession of Indecent Images of Children contrary to section 228A of the *Penal Code* (2024 Revision). Count one concerns 17 category A photographs, Count two concerns 2 category B photographs, and count three a selection of 4 category C photographs.



2. The 23 unique images found were assessed. The ages of the children depicted range from about 8 or 10 years of age to pre-pubescent. They were labelled, inter alia, rape or cp (which is presumed to refer to child pornography). They were created in May and August of 2023 having been downloaded from Discord, a platform on which such images are sometimes shared.
3. Evidence has been served showing the defendant's use of that phone on those dates as a result of which he no longer pursues the aspect of his mitigation originally advanced that the images were put onto the phone by someone else – he accepts the images were on his phone and he now says that he cannot recall how that came to be. This court will sentence him on the basis that he possessed them; they were on his phone and the obvious inference on the evidence is that he caused them to be there – something that he does not now positively dispute. Ms. Bodden, for the defendant, accepts that I am entitled to draw that inference.
4. The defendant was arrested at Owen Roberts International Airport when he flew into Grand Cayman from Canada on 29<sup>th</sup> August 2024. His arrest was, at that time, in connection with the quantity of ganja that he was carrying, a quantity of drugs for which he was thereafter given a sentence of imprisonment which he has now served. That sentence was passed on 11<sup>th</sup> October 2024.
5. His telephones were seized upon his arrest and when his own personal phone was analysed, the images that are the subject of this indictment were found.
6. The results of that analysis were reported a few days after he was sentenced for the drugs matter in October 2024. He was charged with the offences that are the subject of this indictment in February 2025, just as he was due to be released from his drugs sentence. It is regrettable that action was not taken more expeditiously to bring these charges whilst he was still serving the drugs sentence. It was only when the case for sent for an urgent review when his release was imminent that action was taken.
7. The defence submits that the timing of these charges is a factor that should be taken into account when deciding on the sentence that Mr. Rivero should face for these charges of possession of Indecent Images of Children (IIOC). They say that had action been taken more speedily, and at the proper time, that the inevitable sentence for the IIOC could have been served concurrently



with the drugs sentence. I accept that those submissions are valid, and Miss Lewis for the Crown agrees. The defendant was only remanded in custody for the matters for which I am sentencing him today at the start of March 2025. All his time in custody since then will therefore count automatically towards his sentence.

8. Ms. Bodden does not suggest that all of the time he spent in custody from 29th August 2024 until the start of March 2025 should be deducted from his sentence today however she does submit that time following the reporting of the analysis (15<sup>th</sup> October 2024) should be considered for deduction (since it will not otherwise count).
9. I see justifiable grounds to suggest that it would be fair and proportionate to deduct a period of that time from the sentence to reflect the unnecessary and unhelpful delay caused by the matter lying ignored until his release and deportation was imminent.

### **Sentencing Considerations**

10. The possession of indecent images of children causes revulsion in every right-minded person who will normally seek to take every step possible to protect children and keep them safe. Those who choose to possess such images involve themselves in a miserable and dreadful trade that results in children being physically and sexually abused in a manner that is likely to harm or destroy their physical and mental health for the rest of their lives.
11. The only way that the trade in such images of abuse will be stopped is for the tap that is their supply to be turned off and that requires that those who involve themselves in this misery by downloading and possessing such images to be the subject of deterrent sentences.
12. There are no sentencing guidelines in the Cayman Islands for the possession of indecent images of children. The *England and Wales Guidelines* are relevant but must be considered carefully given that the maximum sentence for similar offences in England and Wales is just 10 years whereas the maximum sentence for offences under section 228A of the Penal Code is 15 years.
13. I have been helpfully referred to the CICA case of *R v Holness (CICA 3 of 2021)* where the Court observed that which is well recognised that “*offences for possession of or transmission of*



*indecent images of children are not victimless crimes. Real children are sexually abused in order to produce the images*". The Court in that case also observed (at paras 16 - 18) that the Grand Court in this country is entitled to adjust the start point to reflect the seriousness with which this type of offence is approached in this country as is recognised by the Cayman Parliament choosing to take a higher statutory maximum. I note that for the possession charge in that case Justice Richards must have concluded upon a starting point of 24 months given that the eventual sentence on that charge was 16 months imprisonment after full credit.

14. I have been referred to various unreported cases from this Court – especially the case of Rameau. Without knowing any more about how the Acting Justice in that case reached the start point that he did, it is impossible to consider that case even persuasive as an authority. The CICA in *R v Holness* made a similar observation when they were directed to the limited documents that do exist in relation to that case.
15. The starting point for possession of category A images in England and Wales is 12 months imprisonment with a range of 6 months to 3 years. In this case, I have concluded that there must be an uplift to reflect the fact that Parliament in this Country, in accordance with their democratic obligation to reflect the views of the residents of these Islands, has seen fit to make the statutory maximum sentence 15 years rather than 10 years.
16. Offences such as these appear to be thankfully uncommon on these Islands. There is good public policy reason for the courts to take a strong approach to ensure that remains the case and to seek to ensure that the regularity with which such offences are committed in England and Wales does not come to be commonplace on these Islands. That Cayman factor, if I may call it that, justifies in my view a further uplift.
17. That being so it is my view that whereas the start point for this offence under the English guidelines would be 12 months, I shall take a start point of 24 months.

### **Aggravating factors**

18. All 23 images involved in this case are still images. There are no videos. The collection is small.



19. I do not accept the Prosecution submission that the age of the children depicted in this case greatly aggravates the sentence. In Holness, some of the images were of children aged 4 months to 18 months. Such images of particularly young children and babies are becoming more common, and it is obvious that those are ages which clearly justify the conclusion that the aggravating feature of “age or vulnerability of the child depicted” in the Guidelines is engaged. But since these offences must by very definition involve children, and since the children depicted here are said to be no younger than 8 years but mainly from the ages of 10 to pre-pubescent, there is less aggravation here than there was in Holness.
20. I accept that these offences were discovered upon the defendant’s arrest for another matter (that led to his conviction). Therefore, the defendant has a previous conviction; however, as at his arrest, he was a man of good character.
21. There are therefore no relevant aggravating factors in this case.

### **Mitigating Factors**

22. The defendant is just 19 years of age. Before his arrest on entry into the Cayman Islands, he was a man of good character.
23. Although there is no Social Inquiry Report (and given the confusion that arose at an early stage of this case, I am not urged to delay the sentence any further to get one) it is said by the defence that the defendant had a very difficult childhood in which he was at times homeless, at times in care and at times abused. He has been on his own since he was 16 years old.
24. It is said that whilst in custody his mental health has suffered and he has, at times, been suicidal. Members of his family have died whilst he has been here. He now hopes to get home to Canada to his mother (with whom he is now reconciled). He has used his time in custody as productively as he could. There appears to be support available to him on his return to Canada and the authorities there are aware of his convictions. He has suffered a salutary lesson in the time he has served in custody in a foreign jurisdiction.



### **Credit for Guilty Plea**

25. He pleaded guilty at the first available opportunity. He is entitled to a full one third discount for that plea.

### **Totality**

26. The majority of the images were in Category A; therefore, it is right for me to take my starting point within that category. Since there were only six other images, as reflected in counts 2 and 3, it is fair, in my view, to make all of these sentences run concurrently.

### **The Court's Sentence**

27. Having taken a starting point of 24 months for the offences themselves, after mitigation as set out, I reduce that to 21 months. I then reduce that further by one third to take account of the full credit for his guilty plea which leads me to a sentence of 14 months.
28. At this stage, I have agreed that it is right that I deduct some further time to reflect the unnecessary and unfair delay in charging the defendant – a delay which led to his being charged as he was about to leave the prison gates. I deduct a further four months for that delay.
29. My sentence on count one is therefore 10 months imprisonment with concurrent sentences on count two of 6 months and on count three of 3 months thus making a total sentence of 10 months imprisonment.
30. Given the seriousness of these offences, I am clear that such offences must be reflected by an immediate sentence of imprisonment; and since the defendant will be deported upon his release from prison, there is no sensible alternative advanced to an immediate sentence.
31. The prison authorities will therefore work out which time is to count automatically towards that sentence since the conclusion of his drug sentence. It seems likely therefore that he will be released and deported at some point in the next few months.

**Ancillary Order**

32. I pass a Sexual Harm Prevention Order for the next ten years in the terms we have discussed in court and reflecting the risk and necessity that I consider there to be. I know that the Canadian authorities are aware of this defendant's offending and so will take such steps as are open to them to manage such risk as he represents upon his return to that country.

**Dated the 30<sup>th</sup> day of May 2025**



**The Hon. Justice Emma Peters  
Judge of the Grand Court**