MC/CRIM/01/25
MC/CRIM/04/25

SENTENCING REMARKS

REX

v

CRISTOBAL QUILODRAN

before
HHJ Malcolm Simmons

GIVEN ON
31st July 2025

Representation:	
Mr Stuart Walker	Crown Counsel, Prosecution
Mr. Damian Sabino	Defendant

These sentencing remark will be published indefinitely for this reason:

- As per Schedule 10 of the Criminal Procedure Evidence Ordinance, 2014.

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IN THE MAGISTRATES COURT OF THE FALKLAND ISLANDS
MC/CRIM/01/25
MC/CRIM/04/25
Sentencing hearing: 31st July 2025

Before

HIS HONOUR JUDGE MALCOLM SIMMONS

BETWEEN:

REGINA

V

CRISTOBAL QUILODRAN

MR. STUART WALKER, Crown Counsel, appeared for the Prosecution
MR. DAMIAN SABINO appeared for the defendant by video link

Reporting restriction under section 465 of the Criminal Procedure and Evidence Ordinance 2014

SENTENCING REMARKS

1. You appear before this court today for sentencing in two matters.
2. On 28th May 2025, you were convicted before this court in case number **MC/CRIM/01/25** on the following three Counts:

Count 1

That, being a person over the age of 18 years, having met or communicated on one or more occasions with AB, a person under the age of 16 years, and you did not reasonably believe AB was aged 16 years or over, between the 1st day of January 2025 and the 31st day of March 2025, you intentionally met AB, intending to engage in sexual activity, an offence under section 217(1) of the Crimes Ordinance 2014;

Count 2

That, being a person over the age of 18 years, between the 1st day of January 2025 and the 31st day of March 2025, you intentionally touched AB, the touching was sexual, AB was under the age of 16 years and you did not reasonably believe that AB was aged 16 years or over, an offence under section 211(1) of the Crimes Ordinance 2014;

Count 3

That, being a person over the age of 18 years, other than on the occasion in Count 2, between the 1st day of January 2025 and the 31st day of March 2025, you intentionally touched AB, the touching was sexual, AB was under the age of 16 years and you did not reasonably believe that AB was aged 16 years or over, an offence under section 211(1) of the Crimes Ordinance 2014.

3. Further, on 28th May 2025, you were convicted before the Summary Court in case number **MC/CRIM/04/25** on the following six counts:

Count 1

That, on or before the 3rd day of December 2024, you made 66 indecent photographs of youths, an offence under section 247(1)(a) of the Crimes Ordinance 2014;

Count 2

That, on or before the 3rd day of December 2024, you made 47 indecent photographs of youths, an offence under section 247(1)(a) of the Crimes Ordinance 2014;

Count 3

That, on or before the 3rd day of December 2024, you made 12 indecent photographs of youths, an offence under section 247(1)(a) of the Crimes Ordinance 2014;

Count 4

That, on or before the 3rd day of December 2024, you possessed an extreme pornographic image, namely a video named 'Vd_14_ev.mp4', depicting an act of bestiality, an offence under section 256(1)(ii) of the Crimes Ordinance 2014;

Count 5

That, on or before the 3rd day of December 2024, you possessed an extreme pornographic image, namely a video named 'Vd_31_ev.mp4', depicting an act of bestiality, an offence under section 256(1)(ii) of the Crimes Ordinance 2014;

Count 6

That, on or before the 3rd day of December 2024, you possessed an extreme pornographic image, namely a video named '3_ev.mp4' depicting an act which resulted, or was likely to result, in serious injury to a person's breasts, an offence under section 256(1)(i) of the Crimes Ordinance 2014

4. In respect of your conviction before the Summary Court, you have been committed to this Court for sentencing. I shall deal with both matters today.

5. Before sentencing for the offences in respect of which you have pleaded guilty, I shall deal with a fourth count in case number MC/CRIM/01/25 to which you entered a not guilty plea. In that count, you were charged that, being a person over the age of 18 years, other than on the occasions in charges two and three, between the 1st day of January 2025 and the 31st day of March 2025, you intentionally touched AB, the touching was sexual, AB was under the age of 16 years, you did not reasonably believe that AB was aged 16 years or over and the touching involved penetration with your penis or finger.

6. The prosecution offers no evidence in relation to that charge. That charge is therefore dismissed and I will mark the record accordingly.

7. Turning now to the offences in respect of which you have been convicted.

8. I will deal first with your convictions before this court in case number MC/CRIM/01/25.

MC/CRIM/01/25

Offending

9. These offences took place between 1st January and 31st March 2025.

10. You met AB at the Stanley Leisure Centre where you worked as a Lifeguard and in a supervisory capacity. You were in a position of trust and responsibility that included your having a safeguarding role in relation to the children who were attending the Leisure Centre.

11. The Leisure Centre is a popular facility within the community and frequented by a significant number of adults and children. It is considered to be a safe space and children will often attend clubs and events without the need to have a parent or guardian with them.

12. AB was a regular visitor to the Leisure Centre. The two of you interacted. AB told police about an occasion in mid-October 2024 when you appeared upset at work and that AB sent what might be considered supportive messages to which you responded.

13. At that time, AB was experiencing personal challenges. AB was someone you knew to be vulnerable. AB sent you a message in which, they told you about their worries and concerns. You responded with a lengthy message that was caring and supportive. AB described how they felt on receiving that message. You communicated with AB on a regular basis, over social media and in person at the Leisure Centre. AB describes feeling

that they were able to trust you with emotional issues and that you appeared to trust AB with your own personal matters. This was classic grooming behaviour. You recognised AB as being vulnerable and instead of responding in the appropriate way, you took advantage of AB's vulnerability.

14. You came to the attention of police towards the end of 2024 when concerns were raised about the nature of your relationship with AB. You were spoken to by the management team of the Leisure Centre. You admitted to having been in contact with AB on social media, stating that you had helped AB with personal issues. You were instructed to stop the communication.

15. On 3rd December 2024 you were interviewed by police. You denied having committed a criminal offence. You told police that you and AB were friends and that you had been helping AB with anxiety. You were released on bail pending further investigation and suspended from work at the Leisure Centre. It was a condition of your bail that you did not contact AB either directly or indirectly.

16. In January 2025 you continued grooming AB. AB reported that contact between you had resumed and that you messaged on social media nearly every day. You even exchanged handwritten letters. In one letter you described AB as being the person who had saved you and you expressed your affection for AB.

17. At this time AB believed that you genuinely cared for AB and the only person AB could talk to. This impacted on AB's mental health and AB's eating. AB felt guilty and responsible about your situation.

18. You suggested to AB to sneak out of AB's house late at night, once AB parents were asleep, in order to meet you.

19. AB agreed to meet you and would leave their house after midnight by climbing out of the bedroom window and walking the short distance to your house. You would meet AB inside your motor vehicle that was parked at the side of your house. AB would return to AB bedroom via the window in the early hours of the morning before AB's parents woke.

20. AB stated that the first time they met you in your vehicle, you had talked and had then returned home. On the second occasion, you engaged AB in sexual activity. AB describes drinking alcohol that you had provided. AB drank a significant amount and became drunk, closing AB eyes and leaning AB head against the seat of the car. You kissed AB before peforming oral sex on AB.

21. Following this first sexual encounter, AB says that you expected sexual activity to take place. AB says they did not really want to engage in sexual activity and would try to make up excuses. AB says you were persistent and that AB did not want to hurt your feelings. AB also feared that you might get angry if refused. AB therefore agreed to sexual activity.

22. On each occasion you provided alcohol. AB consumed so much alcohol during those encounters that could not recall everything that happened, waking up at home with no clear memory of events.

23. AB was clearly a vulnerable young child. I have to consider whether AB was 'particularly vulnerable'. At the time of your offending AB was 14 years of age. AB lived at home with parents and attended the local secondary school. AB described to you feelings of low mood. AB clearly felt isolated and unable to confide in others. There can be no doubt that you recognised AB particular vulnerability and, instead of helping AB seek appropriate support, you chose to take advantage of AB. I have, therefore, come to the clear conclusion that she was 'particularly vulnerable' within the meaning of the relevant sentencing guideline.

Victim Impact

24. AB has chosen not to provide a victim impact statement. I am told the reason is that AB does not want you to know how your offending has affected them. However, the potential impact of offending such as yours is well-recognised. Victims may suffer mental health issues, including anxiety, depression, insomnia and eating disorders and long-term clinical issues, including post-traumatic stress disorder. These issues can continue into adulthood and for many survivors of abuse may last a lifetime with full recovery never being achieved. In addition, current and future relationships may be affected due to difficulties trusting, as a result of the breach of trust suffered during the abuse. Each of

these factors can in turn impact on an individual's ability to cope with daily life and societal expectations, leading to further issues coping and increasing the potential for misuse of substances in an effort to deal with difficulties.

25. Your offending impacted not only AB but AB's parents and AB's relationship with them. They were entitled to assume that their child would be safe at the Leisure Centre. They describe finding a bottle of vodka in their child's possession. When they disposed of the vodka, AB shouted at them that AB wanted to commit suicide. On another occasion, AB parents found AB drunk. You abused their trust, and created division between them and their child.

26. Your offending is also likely to have had a profound impact on the community, undermining public trust in the Leisure Centre to keep their children safe.

Maximum Sentences

27. The maximum sentence for an offence of meeting a child following sexual grooming under section 217 of the Crimes Ordinance 2014 is 10 years imprisonment or a fine or both.

28. The maximum sentence for an offence of sexual activity with a child (non-penetrative) under section 211 of the Crimes Ordinance 2014 is 10 years imprisonment or a fine or both.

Sentencing Guidelines

29. The appropriate guidelines are the 'Sexual activity with a child/Causing or inciting a child to engage in sexual activity' guidelines, Meeting a Child following sexual grooming' guidelines and the Overarching Sentencing Guidelines.

Counts 2 and 3

30. I will deal with counts 2 and 3 first because these are the more serious. I have considered with care the totality guidelines. I have structured the sentence to reflect all of your offending behaviour, ensuring the sentence is just and proportionate.

31. In terms of harm, counts 2 and 3 are within category 2. You were a lifeguard and supervisor at the community leisure centre when you first had contact with your victim. It was while working at the leisure centre that you subsequently had contact with AB. You were in a position of trust. You abused that trust. There was a significant age disparity between you and your victim. You specifically targeted a particularly vulnerable child. Culpability comes comfortably within category A. The starting point for a category 2A offence is 3 years imprisonment. The category range is from 2 to 6 years custody. These offences were committed while you were on bail. It was a condition of your bail that you did not contact your victim. Your victim would leave their house at midnight to meet you nearby in your vehicle. Your offending was committed over an extended period of time. Before consideration of your mitigation and early guilty pleas, I consider the appropriate starting point for these offences to be 5 years imprisonment for each offence, concurrent.

Count 1

32. During this first meeting, you talked but nothing more happened between you. This offending was the prelude to the offending in counts 2 and 3 and involved significant grooming behaviour. In sentencing, I have treated this offending as an aggravating feature of counts 2 and 3. I have not imposed a separate sentence for this offence.

MC/CRIM/04/25

33. Turning now to case number MC/CRIM/04/25, you were convicted of 6 counts of making indecent images and possessing videos containing extreme pornographic images.

Offending

34. The offences of 'making' indecent images relates to downloading or saving an image from the internet and I have sentenced on that basis.

35. The offences comprise both still and moving images. These were images found on a Seagate hard drive that was in your possession. Images that you made.

36. On my assessment, although depraved, 125 images (comprising 66 at category A, 47 at category B and 12 at category C) does not constitute a high volume.

37. These offences were committed on or before 3rd December 2024.

Victim Impact

38. It would be entirely incorrect to characterise offences involving indecent images as being victimless. Children featured in indecent images are victims of sexual abuse and may experience the same effects as I have described above. Those who are aware that their images are out in the world, beyond their control, may suffer further as a result of this knowledge. By downloading these images, you have contributed to the exploitation and abuse of these children, feeding into the demand for and creation of such images for perverted sexual gratification.

39. Many women depicted in extreme pornographic images are coerced, sometimes the victims of trafficking. They are abused for the sexual gratification not only of those doing the abusing but, in many cases, for the gratification of others. Downloading these images fuels this abuse and the dissemination of images of such abuse.

Maximum Sentences

40. The maximum sentence on conviction for an offence under section 247(1)(a) is 10 years imprisonment or a fine or both (Counts 1, 2 and 3).

41. The maximum sentence on conviction for an offence under section 256(1)(ii) is 12 months imprisonment or a fine at level 4 on the standard scale or both (Counts 4 and 5).

42. The maximum sentence on conviction for an offence under section 256(1)(i), as read with subsection 7(a) or (b) is 3 years imprisonment or a fine or both (Count 6).

43. I have considered with care the totality principle and structured the sentence to be just and proportionate to reflect your overall criminality.

Sentencing Guidelines

44. In respect of counts 1 – 3, the appropriate guidelines are the 'Possession of indecent photograph of child/Indecent photographs of children' and the Overarching Sentencing Guidelines.

45. In respect of counts 4 – 6, there are no offence-specific guidelines. In sentencing, I have had regard to the cases of *R v Lewis* [2012] EWCA Crim 1071 and *R v L* [2013] EWCA Crim 1600.

Count 1

46. You made 66 indecent images of youths. These were Category A offences, meaning they were images that depicted penetrative sexual activity, sexual activity with an animal or sadism. One video shows a female child, aged 6 or 7 years, performing oral sex on an adult male. The child is in distress and her head is forcibly held by the adult male who then ejaculates into the child's mouth. Another video shows a male child, aged 4 or 5, who appears to be drugged or asleep, having an adult male perform oral sex on him.

47. Count 1 is within category A. The starting point for a category A offence is 1 years custody with a category range of 26 weeks to 3 years custody. Before consideration of mitigation and guilty pleas, I consider the appropriate starting point for this offence to be 18 months imprisonment.

Count 2

48. You made 47 indecent images of youths. These were Category B offences, meaning they were images that depicted non-penetrative sexual activity. One video depicts a female child, aged 8 or 9 years, showing her breasts and vagina whilst masturbating.

49. Count 2 is within category B. The starting point for a category B offence is 26 weeks custody with a category range of High Level Community Order to 18 months custody. Before consideration of mitigation and guilty pleas, I consider the appropriate starting point for this offence to be 9 months imprisonment.

Count 3

50. You made 12 indecent images of youths. These were Category C offences, meaning they were images that depicted other indecent acts, not falling within Categories A or B. One image depicts a female child, in a short school uniform dress, with exposed inner thighs, wearing fish net type stockings, with her tongue out in a sexually suggestive manner.

51. Count 3 is within category C. The starting point for a category C offence is a High Level Community Order with a category range of medium level community order to 26 weeks custody. Before consideration of mitigation and guilty pleas, I consider the appropriate starting point for this offence to be 12 weeks imprisonment.

Counts 4 and 5

52. You possessed extreme pornographic images comprising two videos, one of 54 seconds duration the other 25 seconds. These videos depicted penetrative sexual activity between an adult female and an animal.

53. I consider the appropriate starting point for these offences to be 9 months imprisonment on each count.

Count 6

54. You possessed an extreme pornographic image. The video is 1 minute and 34 seconds in duration and depicts a girl of approximately 12 years of age lying naked on her back. She is tied down and restrained by her wrists and her legs are spread-eagled. She has on a mask and a gag which is forcing her mouth open. She has peg clamps on her nipples

and is then seen to be hit across her breasts by an object. These acts would have undoubtedly caused her acute pain.

55. This was a particularly sadistic video featuring a young girl who was clearly vulnerable and who would have been in pain. Before consideration of mitigation and guilty pleas, I consider the appropriate starting point for this offence to be 12 months imprisonment.

Pre-Sentence Report

56. I have received a pre-sentence report from the Probation Service for which I thank the Probation Officer.

57. You are a citizen of Chile. You were born on 17th February 1989. You are now 36 years of age.

58. You have two daughters, both aged 10 years. Your daughters, with whom you are in contact, reside in Chile with their mothers.

59. You arrived in the Falkland Islands in 2019 and initially worked as a house-keeper. When that employment ended after one month, you started working at a local supermarket where you worked for two years. You then took up employment at the Leisure Centre in Stanley.

60. You told the Probation Officer that at the time of your offending you were experiencing emotional difficulties. You described having started to experience stress and anxiety at work early in 2024, finding yourself struggling to cope with the amount of work, occasionally finding yourself feeling upset, often over insubstantial matters. I am told that you sought support for this and accessed the Emotional Wellbeing Service and you were prescribed anti-depressants.

61. In September 2024, your relationship of five years ended, further lowering your mood. In October 2024 one of your closest friends left the Islands, leaving you feeling alone and entirely lacking support. You described your mood as becoming increasingly dark.

It was during this period that you say your victim noticed that you appeared unhappy and the two of you spoke.

62. You have reported to having had low moods and depression in the past and that you had tried to end your life on two separate occasions. The first of these was when you were seventeen, resulting in a stay in a psychiatric hospital. You also reported that during the police investigations into these offences, you took an overdose of various pills.

63. You reported that, at the time of your offending you were separated from but still living with your partner. You have since reconciled, and your partner continues to support you. the relationship resuming around the time you entered custody on remand, and that you has regular visits from your partner.

64. You are assessed as posing a medium risk of further sexual offending and a high risk of harm, primarily to female children, the nature of the risk being sexual contact. The risk of harm may increase in situations in which you have unsupervised contact with children, particularly in those situations in which you have a duty of care and the opportunity to form relationships.

65. You have, it appears, expressed a willingness to work with the Probation Service to address your offending behaviour.

66. Mr. Quilodran, you have been convicted of a total of nine offences, three of which involved contact offences against a fourteen year old child. Your offending demonstrates a sexual interest in children. You have also been convicted of offences involving bestiality and extreme pornography involving an act likely to cause injury.

67. The offences of which you stand convicted are serious and the length of the maximum sentences reflects that.

68. You targeted a child who you knew was particularly vulnerable, taking advantage of the child's vulnerability and abusing the trust that the child had placed in you. When measures were imposed to protect the child, you disregarded them and chose instead to continue to do as you pleased. You developed a relationship with that child, grooming the child with declarations of your feelings and discussions of how you could be together.

You encouraged the child to leave the safety of their home at night in order that you could abuse the child. The child met you in your car where you proceeded to ply them with alcohol to the point that the child reports being unable to recall exactly what happened during the time you were together. You engaged the child in sexual activity, creating a situation in which you could satisfy your own perverted sexual desires and fantasies.

69. In your discussions with the Probation Officer you even suggested that your victim was, in part, responsible, completely disregarding the fact that, as the adult in the situation, it was your responsibility to behave appropriately towards the child, regardless of what the child may have suggested or how the child may have behaved.

70. Having had time to reflect, you now accept responsibility for your actions. To your credit you have expressed shame and acknowledged that your actions have caused considerable harm to your victim. You have expressed hope that, by taking responsibility for your actions, this may go some way to addressing the harm that your offending has caused.

71. I have considered the relevant facts of this case against the definitive guidelines. I have considered the Pre-Sentence Report for which I thank the Probation Officer.

72. You have no previous convictions. You have reflected on your offending and its impact on others. You have expressed feelings of shame and shown remorse. You have entered guilty pleas thereby sparing your victim from having to relive your offending in court. You have expressed a willingness to engage in rehabilitation. I have taken all of that into account in sentencing.

Sentence

73. I have had the benefit of sentencing notes from Mr. Walker and Mr. Sabino. I have listened very carefully to their submissions. I have taken into account everything said on your behalf by Mr. Sabino. I have also considered carefully the Pre-Sentence Report.

74. In respect of the three offences to which you entered guilty pleas before this court, namely the offence under section 217(1) of the Crimes Ordinance 2014 and the two offences under section 211 (1) of that Ordinance, you appeared before the Summary Court on 7th April 2025 and entered not guilty pleas. This matter was then committed

to this court. At the trial preparation hearing on 28th May 2025, you pleaded guilty to those offences. Your guilty pleas to these offences were **not** entered at the first opportunity. Therefore, you do not get the full discount in sentencing. Instead, I have applied a ¼ discount.

75. In respect of the six offences to which you entered guilty pleas before the Summary Court, namely the three counts in which you were charged under section 247(1)(a) of the Crimes Ordinance 2014, the two counts in which you were charged under 256(1)(ii) of the said Ordinance and the single count in which you were charged under section 256(1)(i) of the Ordinance, those pleas were entered at the first opportunity and I have given the full discount.

76. I am aware that you have been receiving the support of the Emotional Wellbeing Service. I have taken that into account in sentencing. I am satisfied that appropriate support can be provided within the prison system.

77. When sentencing, I have also considered whether the sentences that I impose should be concurrent or consecutive. It would ordinarily be appropriate to impose a concurrent sentence where there is a series of offending of the same or similar kind, especially when committed against the same person. A consecutive sentence would be appropriate in circumstances in which, inter alia, the offences arise out of unrelated facts or incidents.

78. I have considered the guidelines as to the imposition of a custodial sentence and whether it might be suspended. I have taken into account everything said on your behalf by Mr. Sabino. In case number MC/CRIM/01/25, I have taken into account the nature of your offending and the aggravating and mitigating features. This offending is so serious that I am satisfied only an immediate custodial sentence is appropriate. In terms of your offending in case number MC/CRIM/04/25, I have considered the nature of your offending and the aggravating and mitigating features. Your offending included very young and clearly vulnerable children. Given the very serious nature of this offending, only an immediate custodial sentence is appropriate.

79. I recognise that the impact of a custodial sentence will be significant. You are a Chilean national. You have two young daughters who live in Chile. Although you have a partner in the Falkland Islands, your family and other support network are overseas. I take into account the impact of any custodial sentence upon your family.

80. I have considered and taken into account the totality principle. I have taken into account the fact some of the sentences that I have imposed will be consecutive and some concurrent. I have taken into account your mitigation and early guilty pleas. I have structured the sentence to reflect all of your offending behaviour with reference to overall harm and culpability, together with the aggravating and mitigating factors relating to the offences and those personal to the offender, arriving at a sentence that is just and proportionate.

SENTENCE

MC/CRIM/01/25

81. Mr. Quilodran, in respect of Counts 2 and 3, the starting point on conviction after trial would have been 5 years imprisonment for each offence, concurrent. Having regard to your mitigation and early guilty pleas, I reduce that to 3 years and 6 months imprisonment for each offence, concurrent;

82. I make no separate penalty on count 1.

MC/CRIM/04/25

83. I now turn to your convictions in case number MC/CRIM/04/25.

84. In respect of Count 1, the starting point on conviction after trial would have been 18 months imprisonment. Having regard to your mitigation and early guilty plea, I reduce that to 12 months imprisonment, **consecutive** to the sentence that I have imposed in respect of case number MC/CRIM/01/25, all other sentences being concurrent.

85. In respect of Count 2, the starting point on conviction after trial would have been 9 months imprisonment, I reduce that to 6 months imprisonment; Count 3, I reduce from

12 weeks to 9 weeks. Counts 4 and 5 I reduce from 9 months for each offence to 6 months and count 6 I reduce from 12 months to 9 months.

86. I impose a total sentence of **4 years and 6 months imprisonment.**

87. You will be given credit for time served.

88. I am not making a compensation order in respect of your victim in case number MC/CRIM/01/25 because I do not have sufficient information available to me at this stage to enable me to make such an order.

89. The prosecution have not asked for a Sexual Harm Prevention Order and I do not consider it necessary or appropriate to impose one in the circumstances.

90. Because of the immediate custodial sentence I am not making an order that you pay prosecution costs.

91. Following your convictions for the offences under section 211 (1) of the Crimes Ordinance 2014, you will be subject to notification requirements with the police for an indefinite period. You must keep the police informed at all times of your personal particulars, the address at which you are living, and any alteration in the name you are using.