Neutral Citation No: [2024] NICC 30 *Judgment: approved by the court for handing down (subject to editorial corrections)**	*Ref:* **OHA12632** *ICOS No:* **21/059466 21/071278** *Delivered:* **25/10/2024**

IN THE CROWN COURT IN NORTHERN IRELAND
SITTING AT LAGANSIDE COURTHOUSE

THE KING

v

ALEXANDER McCARTNEY

Defendant

Mr D McDowell KC with Ms G McCullough KC (instructed by the Public Prosecution Service) for the Crown
Mr G Berry KC with Mr K O'Hare (instructed by Jarlath Fields Solicitors) for the Defendant

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SENTENCING REMARKS

O'HARA J

Introduction

The provisions of the Sexual Offences (Amendment) Act 1992 (as amended) apply to protect the victims of the sexual offences to which this judgment relates. Accordingly, no matter should be reported which is likely to lead members of the public to identify each of those young persons as a victim of one or more offences. The only exception is Cimarron Thomas in respect of whom anonymity has been waived following an application to the Presiding District Judge (Magistrates' Court) allowing her to be identified.

[1] The defendant is 26 years old having been born on 2 April 1998. He has admitted 185 charges under the umbrella term of catfishing. An alternative description given by the psychologist who examined him and provided two reports for the defence is sextortion.

[2] In the course of the sentencing remarks it will be necessary to reflect the extent of the depravity to which the defendant subjected his child victims. However,

the full horror of the defendant's crimes will not be set out in detail. That was already done at length by the prosecution last week; it is not necessary to revisit details of such sadism and depravity.

[3] It is necessary and important at this point to take the opportunity to thank all of those involved in bringing the defendant to justice, namely the PSNI and their investigative colleagues across Europe and the rest of the world. Their extensive work and investigations into matters of the most harrowing nature must have been difficult in the extreme in this most complex of cases. The fact that this case took a long time to come to court reflects the extent of the painstaking work which they did and should not be a cause for any criticism. The international elements of the charges gave rise in turn to contentions about my jurisdiction to deal with the case. Those matters had to be resolved to bring the case to conclusion.

[4] It was properly accepted on behalf of the defendant that this is a quite horrific case. Submissions were made on his behalf about various mitigating factors. For reasons which I will set out those mitigating factors are few in number and limited in nature.

[5] Having said all of that by way of introduction, I must summarise some examples of what the defendant did to his child victims because that will help to explain the sentence which I am imposing on him today.

[6] I am grateful to counsel for their helpful written and oral submissions. All of the statutes and the authorities to which I have been referred have been read and considered when deciding what sentence is appropriate.

[6] The defendant has pleaded guilty to the following:

(i) One count of manslaughter – maximum sentence life imprisonment.

(ii) 14 counts of causing or inciting a girl under 13 to engage in sexual activity involving penetration – maximum sentence life imprisonment.

(iii) 32 counts of causing or inciting a girl between the age of 13 and 16 to engage in sexual activity involving penetration – maximum sentence 14 years.

(iv) Nine counts of causing a girl under 13 years to engage in sexual activity – maximum sentence 14 years.

(v) 14 counts of causing a girl aged between 13 and 16 to engage in sexual activity - maximum sentence 14 years.

(vi) 58 counts of blackmail - maximum sentence 14 years.

(vii) 29 counts of making indecent images of children - maximum sentence 10 years.

(viii) 11 counts of distributing indecent images of children - maximum sentence 10 years.

(ix) Two counts of causing a person to engage in sexual activity without consent – maximum sentence 10 years.

(x) 12 counts of possessing indecent images of children - maximum sentence five years.

(xi) One count of intimidation - maximum sentence five years.

(xii) One count of possessing prohibited images of children - maximum sentence three years.

(xiii) One count of sexual communication with a child – maximum sentence two years.

[7] The pleas of guilty were entered on five separate dates between January 2021 and March 2024. As a result of these pleas a potentially lengthy trial was avoided. The sentence which is passed will reflect that fact because even though in almost all cases the evidence was overwhelming there is still a benefit from guilty pleas which save those who were the victims of the crimes from having to give evidence about what they were subjected to.

[8] The counts to which the defendant has pleaded guilty reflect offending against 70 victims. The offending concerns the defendant's online exploitation of young girls aged between 10 and 16 years on social media, primarily using the application Snapchat but also Instagram and messenger sites including KIK and OMEGLE. He engaged in what is known as "catfishing." He pretended to be a young teenage girl and deceived his victims into sending sexual images of themselves. At that point he revealed his true intent and threatened them (hence the blackmail charges) with exposure in order to force them to perform sexual acts on themselves and their even younger siblings or even, on occasion, a dog before sending moving or still images of those activities to the defendant.

[9] His victims were located all over the world. They were in Northern Ireland, in the rest of the United Kingdom, in the Republic of Ireland and in continental Europe. They were also in New Zealand, Australia and the United States. The investigation which has brought this case to its conclusion has been international in nature with co-operation between a number of police forces and law enforcement agencies, co-ordinated through the Police Service of Northern Ireland.

[10] Save in the very few cases where victims came forward, police have had great difficulty in locating those who were affected by the defendant's conduct. They often had only social media usernames available to them. Often those usernames bore little or no relation to their actual names. In many instances it has only been possible to discern the age of a particular victim by estimating her age from images discovered and from the content of conversations recovered from the defendant's various digital devices. Some victims who were able to be identified, denied that they were involved when they were approached by law enforcement agencies, even though their photographs suggested that they had been.

[11] The prosecution has described the harm caused by the defendant as being "unquantifiable." I accept that description subject to the proviso that the harm is inevitably and indisputably huge. There are young girls, with younger siblings, all over the world whose childhoods have been scarred by this defendant. And in many cases, that fact may not even yet be known to their adult carers.

Modus operandi

[12] In order to carry out this abuse, the defendant set up false online profiles in the names of girls. Examples of those which he used are Chloe 1313x, Anna 132x, Hanna 133x. These usernames were conceived in the style of online profiles of teenage girls. He targeted young girls who were either gay or who were exploring their sexuality with other girls and did so by posing himself as a young teenage girl who was struggling with body image and her sexuality and was reaching out to others with similar issues. In doing so, he preyed on their insecurity.

[13] His choice of victim was particularly calculating and sinister because the fact that they were exploring homosexuality added an additional layer of security to his actions. In order for those girls he preyed on to report what had happened to them, they would have to admit to their parents not only that they had nude images of themselves online but also that they might be gay.

[14] He sent them a photograph of a girl as if it were a picture of himself. To make matters worse, on some occasions he used photographs of previous victims. He would then encourage them to send to him compromising pictures of themselves, usually involving them being topless. He did so by a combination of flattery and persuasion, complimenting them on their appearance and reassuring them that they were attractive.

[15] When they sent their images, he would expose his fraud by sending them a template message saying that he was a "catfish" and they would have to do as he said, he threatened to upload the images which they had sent to him to the internet or send them to the victim's contacts. He was able to convince them of his abilities through a technical knowledge consistent with a degree in computer science that he was studying for at Ulster University. On occasions he sent images indicating their locations on SnapMaps, showing that he knew where they lived and went to school.

To give one specific example, he threatened one particular victim that he would put her image online and get people to go to her home and rape her.

[16] The defendant's method was described by the prosecution as being formulaic. He would demand that the girls obey him, that they acted quickly and that they remained in the chat forum with him. He would usually specify a period, often a number of hours, during which they would be required to comply. He often extended the time period, as he wished, knowing that they were helpless to resist. Sometimes he would demand their return onto the chat at a particular time or on a future day. This engagement could be for as little as an hour, but some victims were contacted repeatedly. On one occasion there was a gap of a month. As an additional incentive to give into his demands, he would promise to delete all the images of his victim after it was over. He did not, however, keep his promise because multiple images of his victims were later recovered from his devices by police.

[17] He required the girls to provide naked images and to adopt sexual poses and to perform sexual acts for him to watch, often touching themselves and masturbating. He would demand that they would include their faces in the images. Commonly the sexual acts were penetrative in nature.

[18] He would also demand that they involve a younger sibling and would order them to commit sexual acts on the other child, again, including vaginal and anal penetration. Those siblings included some who were as young as three and five years of age.

[19] In one instance, a 13-year-old victim said that her 11-year-old sister was throwing up and did not want to do it. When she sent some images he claimed greater power over her saying that he had pictures and video of her doing sexual acts with her sister. He then demanded 30 more minutes and added that the images had to include her sister's face. When she told him that she would go to the police he said that he was secure because he had been doing this for over a year.

[20] The defendant found even more ways to degrade and humiliate his victims. Commonly, he ordered them to urinate and defecate on themselves or on the floor. Other degradations included the handling of faeces.

[21] The defendant made one girl write on herself in marker pen that she was his "little fuck toy." The defendant then had an image of her having done so.

[22] The defendant ordered the girls to record the acts which he was requiring them to perform and send him pictures and videos. These were for his own sexual gratification. It was apparent from many of the exchanges that he was masturbating.

[23] The prosecution asserts, and I accept, that the chat conversations recovered from the defendant's devices make for the most disturbing reading for any normal person, though more so for any parent. Often the responses from the children are

pitiful. In their desperation they begged him to stop and pleaded for assurances that their images would not be put on the internet or sent to their friends or family members. Many were crying and told him that they were shaking and were terrified by the situation that he had put them in. Typically, his responses to appeals were cold and he simply repeated his demands.

[24] Some of his victims told him that they would kill themselves as they pleaded with him to leave them alone. Others in desperation threatened to harm themselves. Some did so on camera. One victim sent him a number of videos pleading with him before sending him an image of a significant cut to her arm which was bleeding. His response was lacking in any natural human empathy. When another victim repeatedly said that she would kill herself and that her mother was dying from cancer and from a heart defect, his response was to say, "I do not give a shit about you or your mum."

[25] His indifference to the plight of his victims was demonstrated by his most serious single crime, that of manslaughter, when his conduct caused 12-year-old Cimarron Thomas in West Virginia to commit suicide by shooting herself in the head with her father's gun.

[26] Sometimes the ordeal to which the victims were subjected lasted for several hours and often the defendant would return to a victim on further occasions. It is clear from the forensic analysis of his devices that he was engaging in the abuse compulsively, often throughout the night.

[27] Some of the victims asked him why he was doing what he was doing. He gave a variety of explanations. These included explanations which may be honest such as "I'm just messed up and into weird stuff" and "I just get this urge where I like to be in full control sexually." Elsewhere he made false allegations against his own parents by saying, for instance, that his mum and dad were not nice people and had been in prison for abusing him. He also claimed that he was adopted when he was about nine or 10 years old. Furthermore, he claimed that his parents had molested him a lot. None of the allegations against his own parents was true.

[28] He used multiple devices over the period of the offending, replacing them when they were seized by police. Even when he only had a phone, he continued. Even when he was on police bail and not supposed to have any mobile phone or any device, he continued.

The police investigation

[29] The defendant first came to the attention of the police approximately nine years ago as a result of which his home in Newry was searched on 20 January 2016. At that point he was 17 years old and lived with his parents and siblings. A large number of electronic devices were seized including eight computer towers, four laptops, eight tablets and nine mobile phones.

[30] Indecent images of children were found on four of the devices, one of each type: a laptop, a computer tower, a tablet and a phone.

[31] Across all of the devices there was a total of the following indecent images:

Category A 650 images including 623 stills and 27 videos

Category B 704 images including 693 stills and 11 videos

Category C 2,136 images including 2,128 stills and eight videos

TOTAL 3,490 images

There were also 408 prohibited images of children.

[32] Two hundred and forty-five of these images were recovered from a Packard Bell laptop. Analysis revealed that the internet chat service OMEGLE had been used to send a message undated with the words "I am willing to show anything you want on KIK for lots of pics of hot teen girls." The last log on for this laptop was recorded as being on 16 March 2014, shortly before his 16th birthday. A computer tower with only 14 images on it revealed that on 13 August 2014 a file had been sent to an account on the computer. However, the file transfer was stopped by the remote user and the file did not transfer completely.

[33] The examination of his tablet device which held over 3,000 of the images found that applications entitled "Hide pictures – keep safe vault" and "keep safe" had been installed. These applications were used to hide files. The "keep safe" application has been used to protect indecent images of children within it.

[34] The possession of these images is reflected in counts which are summarised earlier in these sentencing remarks with a specimen count for each category of image, Category A, Category B and Category C.

[35] Further examination of the applicant's mobile phone revealed deleted chat conversations showing him demanding images. One girl from whom he demanded nude images said, "I just want to kill myself ok." His response was to tell her that she was on her final warning. He demanded a picture of her breasts and face. He said that if she did not provide them then everyone on Instagram will see the photographs she had already sent. When she said that she thought she was going to die, he said, "I don't care."

[36] As already indicated, a number of devices were seized during a police search of his home on 20 January 2016. After these had been analysed, he was arrested and interviewed on 4 February 2016 before being released on bail. His home was searched on a further three occasions. On 21 March 2018, more evidence was found

in respect of a further 23 victims. Again, on 18 March 2019, when offending in respect of 18 more victims was found and then on 30 July 2019, when the evidence of his abuse was recovered from his phone revealing evidence in respect of an additional 20 victims. This means that subsequent to his first arrest and interview in February 2016 he made contact with at least 61 more victims.

[37] It is apparent that he continued his offending irrespective of the attention of the police, the seizure of the electronic devices and despite the fact that he was on bail. Indeed, as the prosecution contends, there was an escalation in the seriousness of his conduct as time went on. The depravity of his demands increased.

[38] During the first search in 2016, the police found a handwritten note which began with the words "Dear mum and dad, I would like to say sorry and explain …" In this note he claimed that when he was 15, he himself, had been the victim of catfishing and had been deceived into sending compromising images of himself with the other person threatening to ruin his life. This note suggested that he had been made to do the same thing to other people and that he had been directed how to do it by using a false profile picture to pretend that he was a girl. His letter concluded:

> "Since September I have wanted to end it one way or another as he had the power to ruin my life … I shouldn't live with the guilt anymore and I have been depressed ever since … I should have stopped long ago, and I was stupid, so it spiralled out of control so I can't take it anymore.
>
> I am so sorry. Goodbye. I love you all."

[39] When he was interviewed by the police for the first time on 4 February 2016, he maintained to them the same story which is set out in the letter to his parents referred to above. He named the person he had engaged with online as "Sarah" and claimed that they had exchanged indecent images as a result of which he was blackmailed by the person who was the true individual behind the profile of Sarah. He suggested that he knew why police were conducting the investigation, that there was an image uploaded to a certain website and he had been told to make the post. He said that he thought he had done so three times.

[40] He then told the police that from August/September 2015 the person who was manipulating him wanted him to engage in the type of behaviour which had trapped him at the start, that is obtaining naked images of other people. He said that he had not wanted to do this, and it caused him to be depressed. He intimated that he had contemplated committing suicide, but he could not go through with it, so he continued to meet that individuals demands. When police asked how the other person had benefitted from him doing that, his answer was that he thought they were just lazy, and they wanted someone else to do the work for them.

[41] This issue is of some significance in the case overall, because the prosecution suggest that the account is dishonest, that there is no evidence that he was every catfished by anyone and that what, in effect, the defendant did was lay the ground in advance in case the police ever caught up with him, ie he would have a ready-made excuse or explanation for his actions. The prosecution also highlight the fact that the note prepared for his parents is unlikely to be true or honest in any sense since after his arrest on 4 February 2016 and his release on bail he simply continued to offend until his final arrest in July 2019. In other words, the defendant who was purportedly going to say to his parents that he had wanted to end it one way or another before 2016 and who could not live with the guilt anymore, not only continued his offending but stepped it up.

Manslaughter

[42] While the case was progressing, efforts were being made around the world by a number of law enforcement agencies to identify the children involved. These investigations were initially carried out with a view to obtaining evidence, but they were also important for child protection reasons, particularly where younger siblings had been abused as a result of the defendant's actions.

[43] On 20 January 2021, the investigation team received information from Homeland Security in the United States that a 12-year-old child named Cimarron Thomas from West Virginia had taken her own life on 10 May 2018 when she was online with the defendant. The chat conversation between Cimarron and the defendant was recovered from his laptop which was seized on 18 March 2019.

[44] The interaction between the defendant and Cimarron began when he contacted her opportunistically via Snapchat at about 4am on 7 May 2018. In West Virginia that would have been approximately 11pm on 6 May. The evidence recovered from his laptop was that he used a profile "Sarah 131x" to introduce himself and within a short time he had induced her to send a topless photograph and a video of her digitally penetrating herself. Fifteen minutes into the chat he told her that he now had her nudes and face picture so that she was going to do everything that he told her tonight or he would upload everything online for everyone to see, including everyone in her Instagram account He kept her online for a further one-and three-quarter hours until 6am Northern Irish time, 1am her time.

[45] In the course of this two-hour nightmare for Cimarron, the defendant demanded sexual photographs from her. He ordered her to do multiple degrading and humiliating acts, many of which she complied with. They included but were not limited to the following:

(a) Posing for him in various sexual positions, in underwear and naked.

(b) Uttering sexual phrases.

(c) Demanding that she include her younger sister.

(d) Urinating and defecating.

[46] He made her include her face and images and concluded by telling her she had done well and that she could block him and that he would delete the images which she had sent him. Two nights later, he contacted her again. This time he used a different profile. It was just after midnight in Northern Ireland, 7:24pm in West Virginia. When she told him to go and to leave her alone, he replied by indicating that he felt like she had made him rush at the end of the exchange two nights earlier so if she wanted him to delete the images she had to play with him one more time. She was coerced into agreeing to stay with him for one hour and began to send more pictures. It appears from the exchange that she was very distressed and may have begun to cry. He then asked her to include her brother, but she told him she did not have one. From the exchanges it then appears that she sent a photograph of her nine-year-old sister. The defendant responded to say that he wanted to see her topless as well. When Cimarron protested that no, it would just be her he said that he would start uploading and spreading everything. She said that she would shoot herself and his response was to say, "good luck and goodbye" and "You will see what happens by tonight. I tried to be nice by offering to delete them for you."

[47] The conversation concluded after just 33 minutes. Three minutes later Cimarron was found by her nine-year-old sister. Cimarron had gone into her parents' bedroom, her parents being out for the evening, found her father's gun and killed herself with it.

[48] When her sister found her body, she picked up Cimarron's phone and hit the panic button which dials 911, the emergency number. On the advice of the operator the nine-year-old girl ran to her neighbour's house. The neighbour returned with her and found Cimarron unresponsive. The ambulance arrived shortly afterwards, and Cimarron was pronounced dead shortly after midnight on 11 May 2018.

[49] Her sister says that Cimarron had told her parents that she thought she might be bisexual. At the time there was no other reason that anyone was aware of that which might have led her to kill herself.

[50] That was not by any means the end of the tragedies which befell the Thomas family. Mr Ben Thomas, Cimarron's father, took his own life in January 2020. It appears that he always felt particularly guilty about Cimarron's death which inevitably had a huge impact on him. He is reported to have lost interest in life following which he had a seizure and was diagnosed with epilepsy which meant he lost his job. It was only in April 2021, almost three years later, that Mrs Thomas learned what had led to Cimarron killing herself and how the defendant's need for sexual gratification had torn her family apart.

[51] This disastrous chain of events was triggered by the defendant in the space of approximately two and a half hours over two nights with Cimarron. It was more than two years since he had first been arrested by police and more than two years since the police had found the note in which he said that "I should have stopped long ago and I was stupid, so it spiralled out of control …" It is clear beyond any doubt that whatever remorse the defendant now seeks to persuade me of, he was absolutely empty of remorse at the time. As the prosecution has stated, the defendant's plea to Cimarron's manslaughter recognises that bearing in mind what was known to him, any reasonable person would have realised that his actions were bound to subject Cimarron to the risk of physical harm as a result.

[52] Indeed, the circumstances of some of his earlier offending in respect of other young girls proves this point. The prosecution has identified three instances where children had threatened that they would harm or kill themselves. On one occasion, a girl had inflicted injury on herself by stabbing herself in the torso. When one girl stabbed herself in January 2018 and told the defendant that she had done so, his response was to say "right, well that's on you."

[53] In April 2018, just two weeks before the defendant's actions which caused the unlawful killing of Cimarron, another girl said she would cut her whole arm if she had to. The defendant's response was to say "idc" which means "I don't care."

[54] The only possible interpretation of these prior incidents is that the defendant knew very well of the risk that his actions would result in physical harm but, as he himself might put it, he just didn't care.

Victim impact statements

[55] In our court system victims of crime are given the opportunity to tell the court what effect the crimes which have been committed against them have had. These statements serve as reminders to sentencing judges that the focus should be on the victims and not on the defendant. They also serve as public statements on behalf of the victims. The statements in the present case make particularly difficult and challenging reading. Some victims have shown determination that they will not let the defendant beat them and ruin their lives. Even for them, however, the consequences of what he did to them make for gruesome reading. They describe a range of emotions such as depression, anxiety, stress, shame, embarrassment, loss of confidence, difficulty in trusting others and the impact on their own different relationships. For many of them, their childhoods have been stolen. Some have attempted to commit suicide. Others report self-harm and suicidal thoughts.

[56] Parents of some of the victims have written of the impact on their families, of knowing what was done to their young children and what they have endured in the years since. Cimarron's grandfather who lost his son Ben and Cimarron has described how "the life he lived and the future we had planned did not exist anymore. That is something that we will never ever get over."

The defendant

[57] The defendant is now 26 years old. He committed the many offences to which he has pleaded guilty from when he was 15 until he was 21. So, while he started young, he kept going and got worse and worse. He had no criminal record of any description prior to these events, although he now obviously has a criminal record of 185 convictions.

[58] I have the benefit of a very helpful pre-sentence report from Ms O'Loughlin of the Probation Board for Northern Ireland. It states, and it is not disputed, that he had a happy childhood in a family which lived contentedly without any traumatic episodes or disruption. He did reasonably well academically and secured a university place to study science and computers.

[59] His health is reported to have improved since he was detained on remand in July 2019. In part, this is because his use of cannabis has ended. In part, it also appears that it is related to physical symptoms of anxiety resolving, perhaps because they were connected to his prior undetected offending. In any event, he has no ongoing health issues of any significance.

[60] When questioned by Ms O'Loughlin about the deviant and sadistic nature of his behaviours, he said that they stem from his own imagination, not from what he was viewing online. He told her that he wanted to see how far he could push the victims, to see how far he could control them. His motivation was the level of arousal which he experienced but he rationalised his abuse by pretending that his victims were not real. It is perhaps telling that during his interview with Ms O'Loughlin he did not use the term "child" or "children" and told her that when he was offending if he thought about a "real person", this impeded his state of arousal. This is a point to which I will return.

[61] It is hard to get a sense from her report of any real recognition or acceptance on the defendant's part of the harm which he did and of the seriousness of his offences. In my judgment it is telling that he admitted to her that "he specifically decided to target the 10-15 age group, due to their vulnerability and possible naivety, making them more likely to comply with his orders."

[62] Ms O'Loughlin's report states with some insight:

> "The persistency, seriousness and complexity of Mr McCartney's involvement in such extensive and harmful offending is unprecedented. It is clear that the defendant was solely motivated by gaining sexual pleasure through exercising coercive control. He gained this from controlling child victims and forcing them to engage in sexual degrading and humiliating behaviours with no

> regard to the harm he was causing them. He presented as emotionally detached."

[63] Inevitably, when the Probation Board convened a multi-disciplinary risk management meeting in July 2024, the conclusion of those present was that he meets the Board's criteria for being assessed as presenting a significant risk of serious harm. This means that he must engage with the Prison Service psychology and programme interventions while in custody to prepare for any successful release into the community. In Ms O'Loughlin's view, pre-release testing would assist him to apply learning for participation on risk reduction interventions and seek support should he find himself struggling to manage his risk. She anticipated that on release, he will be subject to stringent licence conditions, and it is anticipated that a Sexual Offences Prevention Order will be imposed to assist in the management of his risk after his release.

[64] This report ends with a long list of suggested post-release licence conditions and with the possible contents of a Sexual Offences Prevention Order. No issue was taken on behalf the defendant by Mr Berry with either the proposed licence conditions or with the draft SOPO as submitted to the court.

[65] In addition, to the pre-sentence report, I have had the benefit of an extensive analysis of Mr McCartney from Dr Terri Van-Leeson, a Forensic Psychologist. Her initial report is dated August 2024 with an addendum dated October 2024. Her instructions were to undertake a psychological risk assessment of sexual violence, outline critical risk factors and then make recommendations for the rehabilitation of the defendant. In the course of his exchanges with Dr Van-Leeson, the defendant contended, as he had done with the police, that he himself was the victim of catfishing when he was around 14, that this led to him being blackmailed "but by the time I was 17 the choices were my own."

[66] The psychologist's expert opinion was that the defendant does not suffer from any personality disorder and does not show signs of narcissism. On her analysis he became trapped by an established entrenched cycle of offending over the first three-year period, when he himself was a victim, as he had indicated to her he was, but by the time he reached 16 cannabis misuse had become a predominant feature. This was used as a strategy to block out and numb anxiety, depression and negative emotional states. She recognises that there was an opportunity for him to cease offending and to seek help when he was arrested at the age of 17, but he chose not to do so.

[67] In Dr Van-Leeson's opinion, at para 6.36, features that were concluded to be absent from his offending were that he does not meet diagnostic threshold for psychopathy nor the diagnostic criteria for a personality disorder. He took full responsibility for his offending behaviour, verbalised his guilt and shame and did not blame his victims for his actions. (One might ask how he could do otherwise.) In

her view, the fact that he has functioned well in prison and is emotionally connected to his family are positive signs for the future.

[68] She concludes that if the defendant was released without treatment either now or soon he would certainly pose a high risk. Accordingly, she proposes that his treatment should take a "sequenced trauma informed approach." Among other things she suggests this because in her opinion it would enhance his ability to understand the consequences of his actions for his victims.

[69] The prosecution takes issue with Dr Van-Leeson's report and with the defendant's assertion that, he himself, was a victim of catfishing. This assertion, which the psychologist accepts, is a significant element explaining the recommendations advanced by her and a significant element of the plea of mitigation advanced by his counsel. It is accepted by the defendant that where such a proposition is advanced on the defendant's behalf, the burden of proving it is with the defendant and the standard of proof is the balance of probabilities.

[70] The prosecution challenges the defendant's assertion that he was catfished primarily because he has been inconsistent about when he said it took place, he has given no coherent or sensible explanation of why he then catfished others for the benefit of "Sarah" who was alleged to be the perpetrator against him and, perhaps above all, because the police have analysed his various devices and have not been able to find any convincing or sustained evidence that he himself was the victim of catfishing. The prosecution suggest that this was an excuse or self-justification which was written before his first arrest in the note that he never gave to his parents but was found by the police.

[71] This issue led to the submission of Dr Van-Leeson's supplementary report in which she identifies the critical question being, in her eyes, what is it that caused this defendant to start offending in a particular way. She summarises her position in the following way:

(i) *The defendant has always given the same accounts to different professionals and to the police as well as to herself and to the Probation Service.* With respect that is not entirely correct because there have been some differences in detail between the different explanations which have been advanced at various points.

(ii) *She contends that in the absence of any other criminogenic risk factors, the explanation that he just simply started offending does not stack up psychologically. She encourages me to accept that his consistent self-report should be considered to be credible*. Once again, with respect, the fact that a sexual offender repeatedly says something does not strike me as being a sound reason for considering it to be credible. It can be a consistent false explanation or excuse rather than a credible one.

(iii) *In her eyes, when the defendant was assessed and was asked to talk about his own victimisation, his emotional responses were consistent with the trauma-based response, ie one based on him being a victim to start with, rather than being any form of psychopath.* I acknowledge that to be the doctor's view, but it does not necessarily follow that I should adopt it.

(vi) *The doctor says, "finding the absence of evidence at this time does not necessarily mean that something did not happen."* This seems to me to be an acknowledgement that despite the police analysis of his many devices there is no evidence to support his assertions. In my judgment, the absence of evidence points significantly, though not necessarily conclusively, in the direction of something not having happened.

[72] It is, therefore, my conclusion that the defendant has not proved on the balance of probabilities that he himself was the victim of catfishing when he was approximately 14 or 15.

[73] Even if I am wrong in that, however, I find that in the circumstances of this case any mitigation would be minimal. The fact is that even on his own case the sadism which he showed to others far exceeds any specific or identified abuse which "Sarah" is alleged to have inflicted on him. And, lest it be forgotten, he kept offending in an ever more sinister, dramatic and appalling manner even after his first arrest, and his second arrest and his third arrest.

Mitigating and aggravating factors

[74] In every sentencing exercise a judge tries to identify the main mitigating and aggravating factors which should be taken into account. So far as mitigation is concerned, I have already referred to the absence of any other criminal record and to his youth when the offending started.

[75] I also take account, as I must do by law, of his pleas of guilty, the value of which have been referred to at para [7] above.

[76] Mr Berry urged me to consider that the defendant is genuinely remorseful and ashamed of his actions. I accept that there is now finally some limited evidence of remorse but that comes after he has spent five years in prison. It was absolutely and completely absent at all times before 2019.

[77] In terms of aggravating factors, I must be careful not to double count features which are part and parcel of the offences to which he has pleaded guilty but the following aggravating features are undoubtedly present:

(a) The number of victims.

(b) Their vulnerability.

(c) The involvement of others including their younger siblings.

(d) the involvement of animals.

(e) The level of degradation and humiliation.

(f) The level and degree of penetrative activity.

(g) The planning.

(h) The use of threats.

(i) The way in which the defendant lied about his age.

(j) The period and prevalence of the offending which ran for so many years and did not diminish even during the police investigations and even when he was on bail.

(k) The defendant's complete indifference to the impact of his actions.

(l) The impact on the various victims including the families and extended families.

(m) The way in which images were recovered, saved and arranged in folders.

(n) The fact that so much offending was committed when he was on bail.

(o) The fact that nearly all of these children were abused in their own home where they should have felt safe.

Sentencing options

[78] The main sentencing options which are open to me are life sentences or an extended custodial sentence (an ECS). The difference between them is this. If I impose a life sentence for the unlawful killing of Cimarron and for the 14 separate counts of causing a girl under 13 to engage in sexual activities including penetration, I will set a tariff. A tariff is the minimum number of years which has to be served in custody before release from prison is even considered. The decision to release will be taken by Parole Commissioners who will only release the defendant if they are satisfied that, at that time, he no longer poses a risk to the public. If they decide that he does not pose a risk he will be released, but he will remain on licence for the rest of his life, subject to recall to prison in the event of further offending. If the Parole Commissioners decide that he cannot be released because in their view he still poses a risk to the public, the defendant will stay in prison until his case is reconsidered some years later.

[79] An ECS works somewhat differently. If that route was taken, I would impose a sentence of, say, 20 years with an extension of, say, four years. The defendant would be considered for release after 10 years but, again, that release would not be automatic. The Parole Commissioners would again be involved, having to consider whether he still posed a risk to the public. If he was still a risk, he would not be released. Instead, he would be detained for a further period. He could not, however, be in prison for more than 20 years. Whenever the 20-year custody period runs out, he would have an extended licence period of four years.

[80] The essential difference between the two sentences, which both require the Parole Commissioners to be involved, is that with an ECS there is no element of control or supervision over an individual after the licence period expires. With a life sentence, however, there will always be the risk of recall to prison and there will always be some supervisory control, the nature of which will depend on the extent to which a defendant has changed his ways.

[81] It is also important to note that whether I impose a life sentence or an ECS, I cannot then impose consecutive sentences for other offences committed by the defendant which do not carry the possibility of a life sentence. For example, I could not sentence him to, say, 10 years for his 58 offences of blackmail and order that they would start after his life sentence or his ECS. That is simply not a possibility.

[82] Instead, what I can do is to select the headline offences. In this case they are clearly the manslaughter count and the counts of causing sexual activity involving penetration in girls under 13, both of which carry the possibility of a life sentence. I would impose a sentence on those counts but treat the other 126 offences as aggravating factors which either increase the tariff of the life sentence or the length of the ECS. I would then consider the totality of the sentence which the defendant will serve and satisfy myself that considering all relevant factors it is not excessive.

[83] This is where the current case is unique in this jurisdiction. Sadly, there have been many cases where defendants have had in their possession multiple indecent photographs of children. There have also been many cases in which there have been multiple victims. To my knowledge, however, there has not been a case such as the present where a defendant has used social media on an industrial scale to inflict such terrible and catastrophic damage on young girls up to and including the death of a 12-year-old girl. And when I say young girls I don't just mean the 14 who were under 13. I also mean the 32 who were between 13 and 16.

[84] The defendant was remorseless. He ignored multiple opportunities to stop. He ignored multiple pleas for mercy. He lied and lied and then lied again. He had a plan which worked for him and which he stuck to rigidly for his own sexual pleasure.

[85] In my judgment, it is truly difficult to think of a sexual deviant who poses a greater risk than this defendant. Dr Van-Leeson reports that his remorse is genuine, yet when he met Ms O'Loughlin, he could not even bring himself to use the word "child" to describe his victims. Dr Van-Leeson opines that he has a strong sense of right and wrong but, if that is correct, it makes his actions worse and the risk in the future greater. If you know what you are doing is so terribly and shockingly wrong, but you keep doing it for years to defenceless children, what confidence can anyone have that you will change?

[86] I fear that Dr Van-Leeson has been too optimistic in her analysis of the defendant and the risks that he poses. I accept the prosecution submission that she was actively looking for a reason for his offending and has accepted too readily his asserted starting point that, he himself, was catfished.

[87] The defendant's youth at the time of the offending and his comparative youth now must, of course, be taken into account. The fact that he is young means that he can change but it also increases the threat which he poses if he does not.

[88] There has been some debate about the relevance of examples of sentences passed by courts in England and Wales. In summary terms, courts there work to guidelines issued by the Sentencing Council. In many cases those guidelines lead to sentences being imposed which are significantly longer than are imposed in Northern Ireland (or in Scotland and Ireland for that matter). That is not to say that the guidelines are of no assistance. They are of considerable value when it comes to identifying aggravating and mitigating factors in different cases. And they are helpful when they indicate ranges of sentences which are worthy of consideration.

[89] In that context, I was referred by the prosecution to *R v Leighton* [2017] EWCA Crim 2057. That was a case in which the Court of Appeal in England & Wales increased the sentence imposed on a man who had pleaded guilty to 23 offences involving a number of victims, including five who were between 13 and 15 years old. The case shares some features of the present case including use of the internet, blackmail and the abuse of other children who lived in the same home. The Court of Appeal increased the ECS from 16 years plus six years on licence to 20 years and seven years on licence. At para [54] the court said that the case came close to necessitating the imposition of a life sentence.

[90] On any view, the present case is worse in terms of the number of victims, the number of offences, the nature of the offending and the greater duration of the offending.

[91] On the authorities cited to me, I should not impose a life sentence unless I am satisfied that it is necessary to do so. That is because the life sentences are discretionary not, as in the case of murder, mandatory. This is an issue which has been considered repeatedly in different circumstances by the Court of Appeal over a number of years. It might illustrate the point to take just one example, *R v Gallagher*

[2004] NICA 11. In that case, a life sentence had been imposed with a tariff of eight years on a single charge of robbery. What prompted the life sentence was the fact that the defendant had multiple convictions for robbery and for other violent offences including rape. The court quashed the life sentence and replaced it with a term of nine years' imprisonment instead. It had the following to say at para [24] about the circumstances in which a discretionary life sentence should be imposed:

> "A discretionary life sentence should be reserved for those cases where an extremely grave offence has been committed. Of course, it is true that the criminal record of the offender may affect the view to be taken of the seriousness of the offence since a repeat of earlier offending may indicate a more determined and settled criminal propensity and may cast doubt on any claim that the offence was spontaneous. But it would be wrong to impose a life sentence solely because it was considered that the offender is likely to re-offend on release from a determinate sentence for a less than serious offence. As Lord Bingham CJ pointed out in *Chapman*, a sentence of life imprisonment is the most condign punishment that a court may impose, and it is therefore fitting that this should be reserved for the most serious type of offence and where it is likely that there will be further offending of a grave character."

[92] It is almost too obvious for words that the offending of the defendant was of the most serious type. But is it likely that there will be further offending of a grave character, to use the words of Lord Kerr? In my judgment there is. In part, I base that on his extensive and worsening offending after his first arrest in 2016 until his eventual remand in custody in 2019. The likelihood of being caught again did not stop him. Bail conditions did not stop him. The threat of a longer sentence did not stop him. I also base that view on my interpretation of the pre-sentence report and the report of Dr Van-Leeson. I do not find in them any meaningful reassurance that he has learnt lessons or is reflecting deeply on what he did wrong. I do not sense remorse or shame, certainly not to any comforting degree.

[93] For these reasons, I impose a life sentence on the defendant on the counts of manslaughter and on the counts of causing girls under 13 to engage in sexual activity including penetration.

[94] Having done that, I must now set a tariff which reflects the extent of his crimes and all of his wrongdoing including the other counts to which he has pleaded guilty.

[95] I have considered the tariffs which are imposed in our courts in murder cases and have specifically considered this week's judgment of the Court of Appeal in

R v Whitla [2024] NICA 65. By definition a murder is even worse than a manslaughter despite the fact that in each case there is a loss of life. However, what really aggravates the present case and puts it on a par with murder cases is all of the other offending which I have described above and will not repeat here.

[96] If the defendant had not pleaded guilty to the charges he faced, I consider that a tariff of 24 years would have been appropriate. Reflecting the fact that he did plead guilty and save all of these girls from having to give evidence, I impose a tariff of 20 years. His period in custody since 2019 will count as part of that term of imprisonment. The result is that he will be eligible for consideration for release by the Parole Commissioners but not until 2039. I do not envy the Commissioners having to reach their decision at that point.

[97] On the remaining counts I sentence the defendant as follows:

(i) 32 counts of causing or inciting a girl between the age of 13 and 16 to engage in sexual activity involving penetration – 10 years on each count.

(ii) Nine counts of causing a girl under 13 years to engage in sexual activity – 10 years on each count.

(iii) 14 counts of causing a girl aged between 13 and 16 to engage in sexual activity - 10 years on each count.

(iv) 58 counts of blackmail – 10 years on each count.

(v) 29 counts of making indecent images of children – six years on each count.

(vi) 11 counts of distributing indecent images of children – seven years on each count.

(vii) Two counts of causing a person to engage in sexual activity without consent – six years on each count.

(viii) 12 counts of possessing indecent images of children – three years on each count.

(ix) One count of intimidation – three years.

(x) One count of possessing prohibited images of children – two years.

(xi) One count of sexual communication with a child – one year.

[98] All of these sentences stated above will run concurrently with the term of life imprisonment.

[99] In addition, and in the absence of contrary submission on behalf of any of the parties, I impose a Sexual Offences Prevention Order (SOPO) in the terms applied for. To a considerable degree, this may overlap with the terms of any licence on which the defendant is ultimately released, but it ensures that there will be considerable scrutiny of the defendant's activities after he is released.

[100] In accordance with section 107(1)(b) of the Sexual Offences Act 2003, I specify the period of ten years as the duration of the SOPO.

[101] In addition, I grant an application advanced on behalf of the prosecution to disqualify the defendant from working with children. As matters stand, I can envisage no circumstances in which I would consider it safe for the defendant to work with children.

[102] There is an additional application for a disposal order for a series of devices which were positive for indecent images of children. I grant the order sought in relation to each of the 13 devices.