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Child porn suspect freed on technicality

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The case was heard at Linlithgow Sheriff Court

A man accused of being a member of the world's biggest known internet paedophile ring has walked free from court on a technicality.

Andrew Aspinall, 42, was alleged to have had more than 7,500 pornographic pictures of children on his computer and stored on discs in his home and office.

He was arrested in September 1998 during a nationwide operation by detectives to break up the notorious Wonderland Club.

But a sheriff ruled a police search of his home in Livingston, West Lothian, was illegal because they took a civilian worker along to help unplug and remove the equipment.

Sheriff Peter Gillam ruled the presence of John Cherry in the police team breached the European Convention on Human Rights because he had not been named in the search warrant.

And he refused to allow the computer or the discs to be entered in evidence before the jury at

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Linlithgow Sheriff Court.

Sheriff Gillam said the search warrant, obtained three days before the raid, only authorised officers of Lothian and Borders Police to search the house.

He said: "It was known, or ought to have been known, when the warrant was obtained that Mr Cherry was going to be used.

"The right to privacy of family life is committed to writing under the EHCR.

"This was not a mere technical difficulty. There was no urgency about this situation. It was a well planned operation."

'Rendered illegal'

He ruled that Mr Aspinall was denied the opportunity to refuse to allow Mr Cherry into his home.

The sheriff also ruled that the search was unlawfully executed and the computer and discs unlawfully taken by the police team.

Mr Cherry was a member of the newly formed computer forensics unit at Lothian and Borders HQ in Edinburgh when he was asked to go along on the raid.

His job was to put coloured stickers on the computer and cables so that it could be reconnected back at Fettes HQ.

Mr Aspinall, a father of



Mr Aspinall has now moved to Leicestershire

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“
There is an insufficiency of evidence to proceed. I will not be leading any further evidence
”

two, sat in the dock with his head in his hands as depute fiscal Helen McCannell revealed that the sheriff's ruling would free him.

Helen McCannell
Depute fiscal

She told the court: "There is an insufficiency of evidence to proceed. I will not be leading any further evidence."

She was speaking after Mr Aspinall's counsel, Alan Mackay QC, argued the search was illegal.

Mr Mackay told the court: "The whole search was rendered illegal by the active participation of Mr Cherry."

Mr Aspinall moved from Livingston to live in Gumley, Leicestershire, after his arrest.

He denied charges of possession of child porn and possession of child porn with intent to supply to others.

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