

**CASE NOTE:  
THE NETHERLANDS**

CASE CITATION:  
**LJN BW0103**

NAME AND LEVEL OF THE COURT:  
**Leeuwarden Appeal Court**

DATE OF DECISION:  
**27 March 2012**

*Article 240a Netherlands Criminal Code;  
showing private parts/genitals to a juvenile via  
a webcam*

To declare the primary charge proved, to wit a violation of article 240a of the Netherlands Criminal Code, it is necessary to legally and conclusively prove that there actually is an 'image, object and/or data carrier'.

The Appeal Court established that footage shown via a live webcam connection is only visible at that particular moment in time. The images are not stored, so that they cannot be watched again at a later point in time. It follows that the footage made with a webcam, as in this case, does not constitute an 'image, object and/or data carrier' within the meaning of article 240a Criminal Code, because the images have not been or were not recorded.

The Appeal Court acquits the accused.

NB: For a different decision based on similar facts, see Breda District Court, 5 March 2009, LJN BH5369.

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