

JERSEY / JUDGMENT

AG v A [2019] JRC 015 (07 February 2019)

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JUDGMENT

THE COMMISSIONER: 1. Until 2017 your life appeared to be on a reasonably even keel, but since then you have been before the courts on several occasions for public order offences, offences of dishonesty and a grave and criminal assault. You have been given chances by the court which has made Probation Orders and imposed Community Service Orders, but you have breached those orders. Now you have committed these two offences of robbery. You came across the two victims both aged 17 one evening in a street in St Helier and you robbed them of a phone and some cash by threatening them with a knife. It is clear from the victim impact statements that it was a very frightening incident for them and they have both been badly affected by the experience. 2. This Court has made it clear that robbery and also the use of a knife will be dealt with severely. We wish to repeat what the Court of Appeal said in the case of *Gill v AG* 1999/160: "No community can tolerate violent robberies of this kind, and any person who commits such a violent robbery in Jersey, whatever may be the circumstances of the robber, must expect to receive severe punishment by a long prison sentence" And later in the same judgment the Court of Appeal said: "Before leaving this case we add these general observations. In cases of violence, whether of assault or robbery or rape or other forms of violence, it is necessary that the punishment ordered by the Court should have an element of deterrence, not to deter the offender because it is too late to do that, but (1) to deter others who may be tempted to engage in similar violence, and to remind them that if they do so they will similarly face long sentences of imprisonment; and (2) to show to the community as a whole that violence of this kind is not to be tolerated and will never be tolerated by the Courts of Jersey." 3. We have had regard to the mitigation in your case. (i) You have pleaded guilty although you denied things initially, you very soon pleaded guilty and that is to your credit and has reduced the sentence which you would otherwise have faced. (ii) We do take into account your youth. You are only 17 and youth is an important mitigating factor. (iii) We have read carefully the psychological report and the probation report. There is much about your background and circumstances in those reports and we have taken account of them. 4. We also of course bear in mind Article 4 of the Criminal Justice (Young Offenders) (Jersey) Law 2014 but as your advocate very properly conceded at least two of the requirements for youth detention are met. There is in your case a history of failure to respond to non-custodial penalties and you are unable or unwilling to respond to them. We are also satisfied that an offence of robbery with a knife is so serious that a non-custodial sentence cannot be justified. We concluded despite Article 4 that there is no alternative to youth detention in this case and again your advocate on

instructions from you has realistically accepted that that is the case. 5. We also agree that 2 years is the correct length in this case. Had you been older the sentence would have been longer, because the Court is determined that, as set out in Gill, offences of robbery, including with a knife, will be severely dealt with. 6. The reports suggest a number of measures which could be taken whilst you are in youth detention to help you, because everyone wishes to try and assist you for when you are released and we note that you too wanted to take a carpentry course so that when you come out that will help you find employment. We urge you to take advantage of all the measure that are going to be offered to you and we do hope very much that the agencies will deliver on those. We note from the probation report that hopefully they will be in charge of making sure the other agencies do perform and we look to the Probation Service to ensure that that happens, because if you do take advantage of those measures then there is hope for the future; but if you do not then we fear that you are likely to spend your life going in and out of prison for longer and longer periods and that would be a terrible waste of your life. 7. The sentence of the Court is one of 2 years youth detention concurrent on each of the counts and I must be warn you that you will be liable to supervision when you are released. 8. We also have to consider the question of a Restraining Order under Article 5 of the Crime (Disorderly Conduct and Harassment)(Jersey) Law 2008 . The Crown has asked for an order and we are satisfied on the balance of probabilities that it is appropriate to make such an order in order to prevent conduct which would be likely to cause the victims to be in fear of violence. In particular we note that at the time of the offence you said to them " I know you both from school don't tell anyone or go to the police or I will cut you up ". So there are reasonable grounds for finding that such an order is necessary. As to the terms of the order your advocate said that you accepted these terms and did not wish to contest these terms which are: (i) The defendant is prohibited from having any contact, direct or indirect including through social media and any other form of electronic communication, with the complainants. (ii) The defendant is prohibited from approaching or following the complainants. (iii) The defendant is prohibited from entering or loitering within 50 metres of any premises known to him to be the home addresses of the complainants. (iv) The defendant is prohibited from entering or loitering within 50 metres of any premises known to him to be the work addresses of the complainants. (v) Should the Defendant see or come into contact with the complainants in any public or private place he must take immediate action to avoid any breach of this Order 9. I am sure your advocate will explain to you exactly what that involves but you must remember it when you are released from youth detention because if you were to breach this Restraining Order then that itself would be an offence and you would end up probably being sent to youth detention again. Do you understand? So please stick by them when you come out and we make the order for period of 5 years from today. Authorities Gill v AG 1999/160. Criminal Justice (Young Offenders) (Jersey) Law 2014. Crime (Disorderly Conduct and Harassment)(Jersey) Law 2008. Corcoran v AG

[2002] JRC 47 . AG v Kilgour

[2006] JRC 028 . AG v Coughlan and Murphy

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