

JERSEY / JUDGMENT

AG -v- Allen and Buchanan

[2016] JRC 093 (06 May 2016)

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JUDGMENT

THE DEPUTY BAILIFF: 1. Allen, you are to be sentenced on Indictment containing one count of grave and criminal assault. Buchanan, you are to be sentenced for committing a breach of the peace by fighting. Both of these offences arose out of the same incident and involved the same victim but they are different in nature. Allen took part in an assault in concert with others and her actions included striking the victim over the head with a bottle. Buchanan was involved in a fight. She struck one blow to the victim and wrestled with her. 2. We do not need to go into the detail of exactly what happened. You both fall to be sentenced on the facts set out in your respective bases of pleas which the Crown has accepted as do we. You also both fall to be dealt with as though the Criminal Justice (Young Offenders)(Jersey) Law 1994 applies to you. Buchanan, because it does apply to you, you are 20 years of age, and Allen because you were 20 at the time of the offence. 3. Buchanan, we deal firstly with you. Your culpability lies in the punch that you gave to the victim and then wrestling with her. You bear some responsibility for the way the incident unfolded. Your record is not a good one, although we note that your most recent conviction for violence was in 2011. You were, at that time, under the age of 18. There are signs that we see that you are pulling yourself together. You have the benefit of your guilty plea and we have read, with care, the letters written on your behalf and of course, we take full cognisance of the contents of the social enquiry report. You appear to have taken responsibility eventually for your actions. 4. We think that it is appropriate to deal with you by way of a fine and you are fined £500 with a custodial alternative of 6 months. That is to be paid within the 6 month period which I think accords with your ability to pay it as explained by your counsel. 5. Allen, you participated in a very unpleasant attack. You did so as part of a group on an outnumbered victim who sustained a number of painful injuries including a facial fracture. We have noted the effect of this attack on her and you played a significant role when you used a wine bottle and struck her over the head. That was a deliberate act in the sense that you went and found the bottle. You, and indeed your victim, were extremely fortunate that the injury caused was not much more serious. When people pick up bottles they lose any control over the consequences and the injuries that may be caused. They could have been life-threatening. 6. We have read the statement of the victim and we can well understand her anxiety and the effects that the assault had on her. Clearly alcohol was a factor and that, as the Court has said on many occasions in the past, is an aggravating

factor. Your comments after the event, as referred to by the Crown, do not in any way paint you in a good light. 7. However, you have much to call upon by way of mitigation. You have no previous convictions and the many letters written on your behalf paint a very different picture of you than your actions have suggested. You have demonstrated remorse and we accept that that remorse is genuine. 8. The Court's policy, often stated, is clear. Drink-fuelled violence will normally attract a custodial sentence. The Young Offenders Law, to which we have regard, requires us to impose a custodial sentence only if we are satisfied that there is no other way of dealing with you appropriately. We note amongst all of the other matters of mitigation that have been put forward on your behalf, the effect that your actions have already had on your career prospects, the prejudice of your vocational choice, and the change in your attitude to alcohol and the company that you keep. In our view those matters and the matters disclosed in the social enquiry report can allow us, exceptionally, to deal with this other than by custodial means. 9. We impose a 3 month Probation Order. You will carry out 240 hours' Community Service Order, which is the direct equivalent to 18 months' in custody. 10. You will pay compensation to your victim in the sum of £2,400, which is the guideline sum in connection with the facial fracture that she sustained during the course of the general assault, and you will pay that within 18 months with a 3 month custodial sentence in default in the event that that is not paid. 11. We make no other order. Authorities Criminal Justice (Young Offenders)(Jersey) Law 1994. Harrison-v-AG

[2004] JLR 111 AG-v-Cameron

[2008] JLR N44. AG-v-Conway

[2008] JRC 060. AG-v- Herve

[2011] JRC 086 . AG-v-Hogg

[2011] JRC 223 . AG-v- Ewens , Lister and Weller

[2015] JRC 127 . Licenced Premises (Exclusion of Certain Persons) (Jersey) Law 1998. Criminal Justice (Compensation Orders) (Jersey) Law 1994. UK Magistrates Court Sentencing Guidelines (Compensation). Criminal Injuries Compensation Scheme 2012. Page Last Updated: 17 May 2016 BAILII: Copyright Policy | Disclaimers | Privacy Policy | Feedback | Donate to BAILII

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