

JERSEY / JUDGMENT

AG v Aubert [2018] JRC 195 (19 October 2018)

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JUDGMENT

THE BAILIFF: 1. You are here to be sentenced on an Indictment which contains two charges of grave and criminal assault, both of them arising on the same evening and in both cases you picked up a glass in a public place and threw it towards a crowded area; in one case it hit the victim but did not break and caused bruising. 2. In the other case, it did break and it caused scarring which will be permanent although looking at the photographs the scarring is not as bad some the court has seen; but nonetheless it will leave the victim with a permanent scar. 3. The Court has said frequently that the use of a glass with violence in a public place is cause for a custodial sentence and that glassing offences are serious. In this case we accept that it is not as serious as it would have been if you had intended to cause injury. There is no doubt that you were simply reckless as to whether it did or did not cause injury, but it was violence which was almost certainly fuelled by drink. You and your then partner had been drinking a couple of bottles of wine between you and you had some beers when you were there as well. 4. The Court's policy in cases of that kind is, as you know, to impose a custodial sentence and that is what we are going to do in this case. In particular we take account of the fact that these two incidents had the potential for something much more serious and the glass could have struck the victims in the eye, could have removed an eye or caused some permanent injury there. The injuries in terms of scarring could have been much worse and you were not to know that. So, we think that it is appropriate to impose a custodial sentence. 5. We also take into account that after you had thrown the first glass, theoretically it was open to you to take control of yourself and realise that was a bad thing to have done and as it were to walk away from the problem. But you did not, you carried on and you definitely have an issue with anger management which you need to tackle. You may have an issue over drink which you may need to think about because your record suggests that as well. There are courses in the prison which you can take. You have written us a very good letter of apology which we have considered and you say that you are determined to make changes and we hope that is right, you will be able to do that in custody. 6. We accept that you expected to be dealt with in the Magistrate's Court earlier and we are going to give you some additional discount off the sentence we would have imposed because of that process which you would not have anticipated. 7. In the circumstances we think that the right course is to sentence you to 14 months' imprisonment which is the sentence we now impose on Count 1 of the Indictment, and 12

months' imprisonment concurrent on Count 2. A total of 14 months' imprisonment, and of course the time you have served will go towards that as well. 8. We are also going to impose an exclusion order which will be for a period of 2 years from today's date. You are excluded from 1st, 2nd, 4th, 5th and 6th category licensed premises excluding the Multiplex Cinema, Jersey Airport and the ferry terminal at Elizabeth Harbour. As I say, that runs for 2 years from today and there will be a carve-out from that order that you can attend on licensed premises if you are working and if you do not consume alcohol. 9. months' imprisonment. Authorities Licensed Premises (Exclusion of Certain Persons) (Jersey) Law 1998. *Harrison v AG* [2004 JLR 111]. *AG v Viveiros*

[2014] JRC 162A . *AG v Saville*

[2007] JRC 110 . *AG v Cummins*

[2006] JRC 070 . Page Last Updated: 30 Nov 2018 BAILII: Copyright Policy | Disclaimers | Privacy Policy | Feedback | Donate to BAILII

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