JERSEY / JUDGMENT

AG -v- Batiste [2017] JRC 158 (29 September 2017)

[2017] JRC 158

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JUDGMENT

THE commissioner: 1. The defendant is to be sentenced for a grave and criminal assault committed in St Helier on 13 th September, 2015. The defendant and his girlfriend, both heavily intoxicated, were arguing in the street when the victim, who is aged about 47 and who had also been drinking, intervened, shouting at the defendant to leave his girlfriend alone. The defendant approached the victim and punched him in the head with both fists; the defendant then grabbed the victim and after a scuffle they both fell heavily to the floor where the victim was unconscious for a short period. The victim sustained bruising and abrasions to the face, ears and neck, left arm, chest, left hip and left knee. The most serious injury recorded was a minimally displaced fracture to his skull. The defendant was found later to have abrasions to his forehead and elbow and a cut on his knuckles. He later told police that an unknown drunken man was going to attack his girlfriend and he defended her. 2. There has been a delay in prosecuting this case because the defendant lives in Guernsey. It was nine months before he became aware of the existence of a police enquiry and it is now two years from the date of this incident. 3. The defendant has no previous convictions and is assessed at a low risk of reoffending. That is in part because he has a stable family and work life. He has been working for the Guernsey Post Office for fourteen years and owns his own home, subject to a mortgage. If he is sentenced to imprisonment he will lose his job and suffer the financial implications that will flow from that. 4. Citing the well-known policy of the Court that those involved in drunken violence in the streets of Jersey can expect a custodial sentence as made clear in AG-v-Rowe

[2008] JRC 218 , the Crown seeks a sentence of 15 months' imprisonment. 5. In terms of mitigation we have taken into account everything put forward very clearly by Advocate Heywood on behalf of the defendant. He has pleaded guilty and is of good character, as we have said. From a low educational place he has made a career in the Guernsey Post Office where, again as we have said, he has worked for fourteen years and we have a reference from the Chief Executive Officer of Guernsey Post which can only be described as exceptional. 6. We think this case can be distinguished from the facts in AG-v-Rowe ; in that case the victim was punched to the ground and when he tried to get up he was punched in the face four times. There was also evidence of psychological trauma suffered by the victim as a consequence of those injuries. In this case firstly it was the victim who sought to intervene between the defendant and his girlfriend. Secondly although it is the case that the defendant punched the victim with both fists to the head, which is consistent in our view with the bruising found to the victim's ears, those blows did not put the victim to the ground. There then followed a scuffle between the two men and both of them fell heavily to the ground and it was that fall which we think is the more likely cause of the more serious injuries suffered by the victim. Thirdly, once on the ground the victim was not punched again or assaulted in any way. And fourthly, after a short period the victim regained consciousness and was discharged from hospital the following day with no follow-up. There has been no claim by him for compensation. 7. In addition to this there has been as we have said a delay of two years since the incident and it was nine months before the defendant had any notice of this police enquiry. He was only charged with this offence in January of this year and has come to the Island voluntarily. 8. The policy of the Court is that those who get involved in drunken violence can expect to go to prison and we reiterate that policy, but as Advocate Heywood said, it is a policy not a straight-jacket. This is a case where the custody threshold is passed but on the facts before us and in the circumstances we have described, we think the direct alternative to custody is appropriate. As Advocate Heywood said community service is not a soft option something not often understood by the public . 9. You are sentenced to 210 hours' community service which is the equivalent of 15 months' imprisonment. Authorities AG-v-Rowe

[2008] JRC 218 . Harrison-v-AG

[2004] JLR 111 . Page Last Updated: 04 Oct 2017 BAILII: Copyright Policy | Disclaimers | Privacy Policy | Feedback | Donate to BAILII

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