

JERSEY / JUDGMENT

AG -v- Botting [2016] JRC 119 (12 July 2016)

[2016] JRC 119

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JUDGMENT

THE commissioner: 1. A number of points have been raised this morning which we want to deal with by way of a written judgment which will be issued in due course but we have made our decisions which we can announce now. 2. The Court is satisfied beyond all reasonable doubt that the defendant has failed to comply with his obligations under Article 7(4) of the Criminal Justice (Community Service Orders)(Jersey) Law 2001 , namely to perform the number of hours specified to the satisfaction of the officers. 3. Having regard to Article 7(4) of the Law, the Court has given careful consideration to the options available to it. In particular we have considered whether, as urged by Advocate Steenson, the current order should continue, perhaps with additional hours being added. However, the officers have made it clear that the defendant is no longer suitable for the scheme and in our view we would therefore , in the light of this, and in the light of what Advocate Steenson has said about the defendant's character, setting the defendant up to fail. 4. Secondly he was given absolutely the last chance by the sentencing court. It is worth perhaps just reminding the defendant of what the Court said again:- "4 We are going to avoid a custodial sentence but I want you both to know how close you have come to it. Mr Botting, we are fairly circumspect - we are not sure - about accepting the explanations you have given. We are giving you an absolutely last chance. You can count your life on it that you have never been as close to receiving a very substantial custodial sentence. One of the reasons that we are going to avoid in this case is that you have actually served 4 months or so in prison so far and we think that it gives us the opportunity of taking something of a chance with you and imposing a non-custodial sentence in respect of these offences." 5. In view of this and all the other matters that are before us we have concluded that the only order that we can make is to impose upon the defendant the sentence that the Court would have imposed for that original offending, giving him credit for the hours that he has done. 6. On the First Indictment, on Count 1 you are sentenced to 13 months and 2 weeks' imprisonment, on Count 2 you are sentenced to 13 months and 2 weeks' imprisonment, concurrent. On the Second Indictment on Count 1 you are sentenced to 3 months' imprisonment, concurrent, on Count 2; 3 months' imprisonment, concurrent, Count 3; 10 months' imprisonment, concurrent, Count 4; 12 months' imprisonment, concurrent, Count 6; 12 months' imprisonment, concurrent and Count 7; 3 months' imprisonment, consecutive. That makes a total of 16 months and 2 weeks' imprisonment. 7. We also discharge the Community Service and Probation Orders. Authorities Criminal Justice (Community Service Orders)(Jersey) Law 2001. Page Last Updated: 26 Jul 2016 BAILII: Copyright Policy | Disclaimers | Privacy Policy |

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