

JERSEY / JUDGMENT

# AG -v- Carboulec [2015] JRC 196A (25 September 2015)

**[2015] JRC 196A**

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## JUDGMENT

THE commissioner: 1. You have got a very long record for public order and other offences and you were placed on probation for 4 months by the Magistrate's Court in March 2015, but you have already breached that four times. You are now before this Court for conduct likely to cause a breach of the peace, which involved wandering through a street in St Helier, holding the neck of a bottle you had smashed and putting fear into some tourists; and malicious damage which involved smashing a glass pane in the entrance hall of the Shelter with a broken bottle. In each case you were very intoxicated and it is clear that this is at the root of many of your problems. Until you can conquer your drinking there is little hope of your keeping out of trouble and you will find yourself going back to prison again and again. We do, of course, acknowledge your mental condition as well which makes it even more difficult. Advocate Fogarty, who has spoken very clearly on your behalf, has accepted that there is no alternative to prison on this occasion and we think you understand that. 2. What we do hope is that you will take advantage of what is on offer there during your period of imprisonment. Help can be given, both in relation to your mental condition and your alcohol dependence, and we urge you to take advantage of what is on offer so that when you are released, the prospects are more encouraging. 3. As we say, Advocate Fogarty accepts that there is no alternative to prison but she does refer us to the case of Capuano-v-AG

[2004] JCA 168 which lays down that you cannot impose a higher sentence than is justified by the offences in order to obtain some perceived benefit for the offender or, indeed, for the community. We entirely accept this principle but in our judgment 12 months in total is not excessive for these two offences, taking account of your long record for similar offences and the circumstances of the two offences; the first involved putting members of the public in fear and the second involved a violent attack on the property of the Shelter in the presence of some of its staff. 4. So we conclude that that is the right sentence. We also think that there should be a consecutive sentence for the breach of probation. This is the fifth breach of a short Probation Order and it has to be made clear to all those who receive Probation Orders that if they breach the orders they must face the consequences. 5. On Count 1 the sentence is 9 months' imprisonment, on Count 2; 3 months' imprisonment and for the breach of probation on all the relevant offences; 2 months' imprisonment,

concurrent on the various offences but consecutive to the other two; so that makes a total of 14 months. 6. We make the Exclusion Order and we think that the right thing is to make it for 18 months from today. But we do not make the Exclusion Order in respect of 3 rd category premises; we think that and have said on previous occasions, that it can be thought to be over-harsh to prevent the taking of a meal in a restaurant which happens to serve alcohol. So we do not include rd category premises but otherwise we make it as requested by the Crown. Authorities Capuano-v-AG

[2004] JCA 168. Licensed Premises (Exclusion of certain Persons)(Jersey) Law 1998. AG-v-Ferguson

[2014] JRC 099. AG-v-Da Silva

[2014] JRC 223 . Page Last Updated: 27 Sep 2016 BAILII: Copyright Policy | Disclaimers | Privacy Policy | Feedback | Donate to BAILII

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