

JERSEY / JUDGMENT

AG -v- Cassin 30-Mar-2006

[2006] JRC 050 (30 March 2006)

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JUDGMENT

THE BAILIFF: 1. Defence Counsel very generously extended an apology to the Court for failing to draw the Court's attention to the lack of jurisdiction to suspend a sentence of youth detention. We think it is right to record that the Court did not give the opportunity to Counsel to make submissions on the matter prior to sentence being delivered and responsibility for this state of affairs rests entirely with the Court. 2. Unfortunately the Court overlooked the provisions of Article 2 (5) of the Criminal Justice Suspension of Prison Sentences (Jersey) Law which expressly prohibits the Court from suspending a sentence of youth detention. There is no doubt therefore that the Court acted without jurisdiction in imposing the sentence which was in fact imposed on this defendant. 3. The Crown Advocate has suggested that we have an inherent jurisdiction to correct the error, as the Attorney General has, it appears, no statutory power to refer the sentence to the Court of Appeal. We are satisfied, applying the principles laid down by the Court of Appeal in *Jones -v- AG*

[2000] JLR 103 , that we have an inherent jurisdiction to treat that part of the sentence which we erroneously imposed last Friday as a nullity and to substitute another sentence in its place. 4. Counsel for the defendant has argued persuasively that any sentence which we now impose should not place the defendant in a worse position than he was when he left the Court having been sentenced. 5. In the circumstances of this case we accept that submission. Cassin left the Court last week in the knowledge that if he behaved himself during the next two years he would suffer no further penalty. The only sanction available to us which would achieve the same effect is a binding over order. Ordinarily, this would be completely inappropriate for the serious offence to which the defendant pleaded guilty, but in the unusual and unfortunate situation which the Court has created for itself it is the only solution. 6. Cassin, the Court regrets that it has been necessary to bring you back before the Court but you have heard what I have said in relation to the sentence which we imposed last Friday; we had no power to impose a sentence of youth detention and then to suspend it. We are going to cancel that sentence, and we are going to substitute in its place a binding over order for a period of 2 years. I must repeat to you that the binding over order means that you are to be of good behaviour during the next two years and that if you are not of good behaviour and you are brought before the Court again then you will be

liable to be sentenced again for the grave and criminal assault to which you have pleaded guilty. 7. We impose the binding over order. The Compensation Order will, of course, stand. We are grateful to both Counsel for their assistance. Authorities Criminal Justice (Suspension of Prison Sentences) (Jersey) Law, 2003. Jones -v- AG

[2000] JLR103. Page Last Updated: 15 Jul 2016 BAILII: Copyright Policy | Disclaimers | Privacy Policy | Feedback | Donate to BAILII

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