

JERSEY / JUDGMENT

AG v CC [2022] JRC 011 (20 January 2023)

[2022] JRC 011

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JUDGMENT

THE DEPUTY BAILIFF: 1. I have been invited to make a ruling under Article 50 of the Criminal Procedure (Jersey) Law 2018 . Article 50 provides: " Sentencing where facts in dispute

- (1) This Article applies where a defendant found guilty is to be sentenced, and the defence disputes the facts upon which the defendant was found guilty.
 - (2) Where this Article applies, the trial court -
 - (a) shall, if invited by the defence or prosecution to do so; or
 - (b) may, of its own motion, communicate its view of the facts to the sentencing court.
 - (3) Where, under paragraph (2), the trial court has communicated its view of the facts to the sentencing court, the sentencing court may sentence the defendant on the basis of the facts so communicated.
 - (4) In this Article -
 - (a) "trial court" means -
 - (i) where the defendant was tried by the Royal Court sitting with a jury, the Bailiff, or (ii) where the defendant was tried by the Inferior Number of the Royal Court sitting without a jury, the Bailiff and Jurats;
 - (b) "sentencing court" means the Royal Court sitting as the Inferior Number or Superior number, as the case requires."
2. I have considered the guidance given in AG v Williams

[2022] JRC103 subsequently followed in the case of AG v Baksa

[2022] JRC 109 . 3. I have been provided with brief submissions by the Crown and the Defence in relation to the issue which is the basis upon which the Defendant will fall to be sentenced on Count 5 of the indictment, to which he pleaded guilty, an offence of causing malicious damage on 30 March 2022 when the Defendant was in custody at Greenfields. 4. Although this particular offence was not being tried by the jury, I heard the evidence relating to it as it was relevant to allegations of assault which were determined by the jury during a three-day trial which concluded on 30 November 2022. 5. The point is a narrow one and I am asked to determine whether or not the offence of malicious damage extends to the

Defendant breaking a glass panel on the day in question. The evidence heard by myself and the jury was disputed on this issue in that one witness to the incidents with which the jury were concerned did not see the Defendant causing damage to the glass panel. For some time the witness was some distance away from the panel and she agreed that glass was missing; accordingly she saw the window after it had been broken. However, the witness who was closest to event, Staff member 1, gave clear and detailed and, in my view, compelling evidence on the issue. I have reviewed my notes of the evidence and my summary of the evidence to the jury. Staff member 1 witnessed the Defendant kicking the glass panel between the corridor and the communal room at Greenfields, causing it to smash. Furthermore, she had a clear recollection of herself and another member of staff clearing the glass away and talking to the Defendant with the broken glass panel between them. Indeed, at one stage she told the jury that the Defendant had tried to climb through the gap where the glass panel had been. She was firm on the issue when she was cross-examined. 6. Having heard the evidence in this case, and received brief written submissions from the parties, I am satisfied so that I am sure that the damage occasioned by the Defendant, to which Count 5 of the indictment relates, extends to breaking the glass panel to which I have referred. Authorities Criminal Procedure (Jersey) Law 2018. AG v Williams

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