

JERSEY / JUDGMENT

AG v Chalk [2019] JRC 011 (01 February 2019)

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JUDGMENT

THE DEPUTY BAILIFF: 1. You are to be sentenced for one count of grave and criminal assault committed in December of 2008, and one count of common assault committed in September of last year. The Crown has set out the details of the offending. Of course, the grave and criminal assault is the more serious of the two charges, and that took place when you struck out following little provocation at your victim's face with your right hand whilst holding a beer glass. That you intended this assault is clear from you saying "cop this" to your victim whilst thrusting the glass into his face. 2. It was extremely fortunate that the injuries were not more severe, and as we said in the AG v Cameron

[2016] JRC 107 : "3. A glassing, whether intentional or unintentional, is of course particularly dangerous as the person who holds the glass has no control over the injuries that the victim suffers and they could in this case have been very much more severe than they were. We repeat the words of the Court in AG-v-Viveiros

[2014] JRC 162A in which the Court said:- "6 We want to emphasise that the mere fact that a person forgets he is holding a glass when he tries to punch someone is not sufficient to lead to a non-custodial sentence whether or not it is technically called a glassing. On the contrary, such an assault will inevitably lead to a prison sentence if it is unprovoked and may often do so even where there is provocation. It all depends on the level of provocation and the other mitigation available. But a defendant must take the consequences of his actions whether or not they were intended."" 3. We do not consider that the provocation for the grave and criminal assault, such as there was, would have come close to justifying or explaining the assault and it is clear that it was very much a drink fuelled incident. 4. We note that you left the island and did not answer to this charge at the time, but we accept that you have returned on more than one occasion and you have not been arrested and therefore were not aware that it was outstanding against you. We think therefore we can afford some weight to delay in this case. 5. The common assault had nothing by way of provocation, it was also an alcohol based assault and it represented a completely disproportionate reaction to the fact that the victim had pushed the taxi door whilst walking passed. To our mind this cannot possibly amount to provocation, and, of course,

you ran off but were found shortly afterwards by a police officer. 6. We note the mitigation available to you, including your guilty pleas. We have read with care the references that have been provided on your behalf, and, as your counsel has said, they do indeed show a very different side of your character which we take into account. We have also read your letter and we accept that the remorse that you express in that letter is genuine and that you now have very clear aims as to how you wish your life to be in the future. Your record however, is not a good one and there are a number of instances of violence in your past and unsurprisingly you are assessed as presenting a high risk of reconviction. 7. We accept the Crown's characterisation of this assault against the Harrison criteria (*Harrison v AG*

[2004] JLR 111) except as to whether or not the glass was seized or carried. We agree, as your counsel has urged, that it was not carried as a weapon and therefore we should treat it as being seized on the instant. 8. The policy of the Court is as stated by the Crown and a custodial disposal of this matter is in our minds an inevitable consequence of the facts. We think that we can make rather more allowance for mitigation than was afforded by the Crown in its conclusions. Accordingly with regard to Count 1 the grave and criminal assault you are sentenced to 12 months imprisonment; Count 2, the common assault, 6 months' imprisonment, consecutive, making a total of 18 months' imprisonment. 9. We make an Exclusion Order in the terms set out by the Crown for 2 years from the date of your release. *Authorities AG v Cameron*

[2016] JRC 107 . *Harrison v AG*

[2004] JLR 111 . *AG v Cummins*

[2006] JRC 070 . *AG v Saville*

[2007] JRC 110 . *AG v Iles and Chalk*

[2007] JRC 096. *AG v Cameron*

[2016] JRC 107 . *AG v Aubert*

[2018] JRC 195 . *Licensed Premises (Exclusion of Certain Persons) (Jersey) Law 1998*. Page Last Updated: 21 Feb 2019 BAILII: [Copyright Policy](#) | [Disclaimers](#) | [Privacy Policy](#) | [Feedback](#) | [Donate to BAILII](#)

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