

JERSEY / JUDGMENT

AG v Coelho [2024] JRC 006 (10 January 2024)

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JUDGMENT

THE DEPUTY BAILIFF: 1. Jose Coelho, you are 20 years old, having reached your twentieth birthday on 5 December and you appear to be sentenced for a number of offences committed when you were 19 years old. 2. On 10 May 2023, whilst on court bail to be sentenced just two days later by the Magistrate and whilst on bail with a condition that you do not drive a motor car, you committed offences of driving a motor car without a valid licence and driving without insurance. 3. On 12 May 2023 you were sentenced by the Magistrate in relation to thirteen motoring offences, four of which related to driving without insurance and two for driving without a licence. You were then disqualified for 18 months and also given other sentences to which we will return in due course. 4. You ignored the disqualification imposed upon you by the Magistrate, and on 24 August 2023 you flouted that order by driving a Mini in St Helier whilst disqualified and of course again without insurance. These are serious offences. 5. When you were arrested on 2 September 2023 having failed to attend Police Headquarters as requested and when arrested you had a small amount of cannabis upon you. 6. Your home address was searched and the police seized a key for the Mini and a registration document showing you became the owner of it on 22 August, so two days before you committed the offence on 24 August and showing that you purchased a car in your own name when you were disqualified from driving. You have never held a full driving licence - you never passed your test - and your last provisional licence expired in October 2022. 7. In your police interviews you admitted the May offences but denied the offences in August which does you no credit. Nonetheless, you ultimately pleaded guilty to these matters, and the other matters for which you will receive full credit, and sentence was adjourned until 17 November 2023. 8. On that occasion, the Magistrate's Court noted that you were in breach of the Community Service Order imposed by that Court on 12 May. In addition to the 18 months disqualification from driving to which we have referred, you were sentenced on 12 May to 150 hours of community service, 9 months' probation and a fine of £2,200. In respect of the fine you have paid £700 and £1,500 is outstanding. In respect of the 150 hours community service, that the Court held was equivalent to 9 months' youth custody, six months after that sentence was imposed you had completed only 35 hours of that period, some 23%, leaving unpaid work outstanding the equivalent to 7 months youth detention. 9. You have been suspended from the community service program owing to your behaviour. Your conduct is referred to in the Pre-Sentence Report

prepared by the Probation Service and the Crown's conclusions. In respect of community service you have failed to report on three occasions, claiming you had overslept, and on another occasion you were extremely offensive. You were warned three times for foul language and ultimately you were so offensive to the community service supervisors that you were suspended from the scheme. Accordingly you were assessed as being unsuitable for community service, although you are suitable for probation notwithstanding the breach of the recent order. 10. Today you tell us you are prepared to carry out community service. The Probation Service says one option today for the Court is revocation of the probation order and the imposition of a new 12 month order including various conditions requiring you to, amongst other things, access the Road Safe programme if you are suitable, engage with the Alcohol and Drug Service to help you reduce your cannabis use, engage with Skills Jersey to enhance your long-term employment prospects and engage with the Restorative Justice Officer to bring home to you the impact of your offending behaviour. 11. The report says that you are prepared today for a sentence of youth detention, which is unsurprising in view of your conduct. 12. We have had regard to the Crown's conclusions which quite rightly focus on your age. By virtue of your age a custodial sentence is a last resort for the Court, owing to the provisions of Article 4 of the Criminal Justice (Young Offenders) (Jersey) Law 2014 . The terms of Article 4 are well known to the Court and we do not recite them. 13. We cannot in the circumstances of this case pass a sentence of youth detention upon you owing to your age, unless we find that you have a history of failure to respond to non-custodial penalties and that you are unable or unwilling to respond to them. There is no doubt that you now have a history of failure to respond to non-custodial penalties and the question is whether you are unable or unwilling to respond to them. You are clearly physically able to carry out such penalties - you simply have not done so successfully to date. So the question is whether you are " unwilling to respond ", as considered by the relevant case law. 14. We agree that the Court needs to take into account the history of your non-compliance in order to reach a view as to whether, objectively, you are willing and have shown a willingness to carry out a community service order in this case. In that regard we have been assisted today by the evidence of the Probation Officer. We asked her whether you would be able and whether they are prepared to accept you on a renewed community service order and the Probation Officer said that with guidance from her and a change in attitude from you that you could complete an order. In contrast to your non-compliance with community service, she has told us that in relation to probation you have presented on time, you have reached out to her when you are unsure of matters, that you have listened to her advice and not missed a single appointment. She said that after you were offensive to the community service supervisors you apologised to her and that a different work plan might be available. She describes you as having supportive parents who we see in Court today and they have written to the Court. 15. As you can tell the members of the Court have been in retirement for a significant period and it is fair to say that you have escaped youth custody this morning by a 'hair's breadth'. The members of the Court have been able to satisfy themselves in accordance with the terms of the statute that you are not today objectively unwilling to respond to a non-custodial penalty, but you should understand that if you fail to complete any part of the community service or probation order that we are about to impose then that finding would not be open to the Court, and you would be brought back to this court and

almost certainly sent to La Moye to start a sentence of youth custody. The Court is considering today your 8th and 9th convictions for driving whilst uninsured and your 5th conviction for driving without a licence. You have shown a complete disregard for the road traffic legislation of this Island and this is your very last chance. Do you understand? 16. We impose upon you a Community Service Order of 180 hours, equivalent to a sentence of 12 months youth custody and we do so as follows: In relation to the matters that were dealt with by the Magistrate last year we revoke the Community Service Order and we impose in relation to the offences of driving without insurance, convictions number 6 and number 8, we impose 90 hours Community Service the equivalent of 6 months youth detention concurrent on both counts. We note that in accordance with the non-statutory chart, 6 months youth custody is equivalent to a longer period of Community Service, but we reduce the period to 90 hours on the grounds of totality. We also note that the equivalent sentence for those particular offences was 3 months custody in May of last year, but we have elected to impose the equivalent sentence to 6 months youth custody concurrent, as we are now imposing concurrent sentences and we think that is the right sentence for the purpose of today's resentencing. 17. In respect of the first four offences on the Indictment, Counts 1, 2, 3 and 4 you are disqualified from driving for a period of 3 years. In relation to Counts 2, 3 and 4 we sentence you to 90 hours Community Service, concurrent but consecutive to the 90 hours we have already imposed, making a total of 180 hours Community Service, and those 90 hours of separate Community Service in respect of Counts 2, 3 and 4 are equivalent to 6 months youth custody concurrent on each count, reduced in terms of the equivalent Community Service hours for totality, along the same lines that we have mentioned before. In relation to Count 5 we order no separate penalty and the forfeiture and destruction of the small amount of cannabis. 18. So the sentence of the Court is 180 hours' Community Service, equivalent to 12 months youth custody, revocation of the existing community service order and the existing probation order and a new probation order of 12 months imposed on Counts 2, 3 and 4. 19. You will continue to pay the outstanding fines, but now at the rate of £200 per month in view of the employment that you have secured which is to commence on Monday. In relation to the application made under the Criminal Justice (Forfeiture Orders) (Jersey) Law 2001 we order the forfeiture of the 1998 Mini under Article 2 of that Law. We regard it as a proportionate order to make in the circumstances of this case having regard to the facts of the case and the value of the vehicle concerned. 20. Mr Coelho, you must do these hours do you understand? If the hours conflict with your job or any job the hours take priority, do you understand? If you do not get on with your supervisor you cannot be rude to him or her, do you understand? You just need to get on with it. I am afraid to say that if you do not then you will be back here quite soon and you will end up going to La Moye and that is not what you want, it is not what your parents want, it is not what your girlfriend wants and it is not what we want, do you understand?. Authorities Criminal Justice (Young Offenders) (Jersey) Law 2014. Criminal Justice (Forfeiture Orders) (Jersey) Law 2001. Motor Traffic (Third-Party Insurance)(Jersey) Law 1948 Criminal Justice (Community Service Orders)(Jersey) Law 2001 AG v W

[2022] JRC 041 Louis v AG

[2010] JRC 170 Magistrate's Court Sentencing Guidelines - motoring offences Driving Whilst Disqualified - English Sentencing Council Guidelines Page Last Updated: 18 Jan 2024 Back to top About JLIB Accessibility Contacts Copyright Disclaimer Feedback Privacy policy Site map This website is not compatible with your web browser. You should install a newer browser . If you live in Jersey and need help upgrading call the States of Jersey web team on 440099. BAILII: Copyright Policy | Disclaimers | Privacy Policy | Feedback | Donate to BAILII

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