

JERSEY / JUDGMENT

AG -v- Courval [2010] JRC 196 (29 October 2010)

[2010] JRC 196

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JUDGMENT

THE commissioner: 1. The defendant, who is aged 22, has pleaded guilty to road traffic offences committed on 21 st June, 2010, and accepts that he has failed to comply with Community Service and Probation Orders imposed upon him on 11 th December, 2009, in respect of a grave and criminal assault, possession and production of cannabis. 2. The breaches of the Orders imposed on 11 th December, 2009, relate to his failure to report as instructed for community service on three occasions without a proper excuse, and after attending a compliance meeting and receiving a final warning. He has completed 65 out of the 220 hours imposed. It also relates to his failure to respond to the Probation Order and in particular his failure to attend an aggression control training course which was considered a crucial component in assisting his anger management issues. 3. The defendant has a bad record and his counsel acknowledged on 11 th December, 2009, that he knew that that was his last chance. As the Royal Court said on that occasion:- "With very considerable hesitation, the Court has come to the conclusion that it is just possible to avoid a custodial sentence. Courval, you have come as close as it is possible to get to a prison sentence without such a sentence being imposed and I want to make it absolutely clear to you that if you come back before this Court in circumstances of this kind again, there is only one likely result. You have to learn to control yourself and to exercise restraint when this kind of absurd comment is made to you. We hope very much that you will take advantage of this decision of the Court and that we shall not see you again." He was sentenced to 150 hours' community service for the grave and criminal assault, equivalent to 9 months' imprisonment and 70 hours' community service for the production of the cannabis, which was for his personal use, the equivalent of 3 months' imprisonment, to be served consecutively. There was some discussion as to the appropriate equivalent sentence for the 150 hours' community service but on looking at the table it is clear that it does equate to 9 months' imprisonment. In light of his non-compliance with these Orders, which is not disputed, coupled with his reluctance to address these issues, the Probation Department do not recommend a further community-based order. 4. We have carefully considered the mitigation put forward by Advocate Landick, Courval's letter and the letter from his mother. The defendant has pleaded guilty; he is still young aged 22; he is in work; he has a steady relationship and family support. 5. We accept the Crown's conclusions in relation to the Community Service and Probation Orders and therefore revoke the same as imposed on 11 th

December, 2009. The defendant therefore stands to be sentenced for those offences, allowing credit for the community service hours that he has already served. 6. In our view, and despite the support of his family and the mitigation that has been put forward, we have no alternative other than to impose a sentence of imprisonment upon the defendant for these offences. He was given what his counsel and the Court then described as a "last chance" and he has abused that opportunity. Defendants must understand that where they are given the opportunity of avoiding a custodial sentence, they must comply with the terms and conditions of those orders, and if they fail to do so, unless there are exceptional circumstances, the Court will impose the sentence it originally had in mind. 7. However, when we come to the road traffic offences, we do consider the penalties sought for those offences to be too high and inconsistent with the penalties which we understand the Magistrate's Court would have been likely to have imposed, and we are therefore going to reduce those conclusions. 8. First of all we revoke the Community Service and Probation Orders imposed on 11 th December, 2009. For those offences for which you were sentenced on 11 th December, 2009, we sentence you as follows:- Count 1; 6 months' imprisonment, Count 3; no separate penalty, Count 4; 2 months' imprisonment, consecutive, which makes a total of 8 months' imprisonment. On the Indictment to which you have pleaded guilty today relating to the driving offences, we sentence you as follows:- Count 1; £500 fine or 4 weeks' imprisonment, in default, Count 2; £100 fine or 1 week's imprisonment, in default, Count 3; £600 fine or 6 weeks' imprisonment, in default. That gives rise to a total under that Indictment of £1,200 fine or 11 weeks' imprisonment, in default. We give the defendant 6 months to pay those fines from the date of his release from imprisonment. The Crown has not sought a separate disqualification and we therefore do not intend to impose one. Authorities AG-v-Courval

[2009] JRC 244. AG-v-Bailey

[2009] JLR N 19. AG-v-Bailey

[2009] JRC 077 . Louis-v-AG

[2010] JRC 170 . Page Last Updated: 02 Aug 2016 BAILII: Copyright Policy | Disclaimers | Privacy Policy | Feedback | Donate to BAILII

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