

JERSEY / JUDGMENT

AG -v- Da Silva [2016] JRC 046 (19 February 2016)

[2016] JRC 046

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JUDGMENT

THE DEPUTY BAILIFF: 1. You are to be sentenced for a single count of making an affray. It is clear that alcohol has played a significant part and, as is often noted in this Court, that is an aggravating feature and not a mitigating one. But what makes this crime so serious is the fact that you returned home after an argument had started, armed yourself with a knife, returned armed, and then brandished it and threatened people with it. At that point the consequences could have been very severe. You were a drunken person armed with a knife. It must have been a shocking and frightening experience for those who witnessed it. 2. We have given due regard to the mitigation available to you, to your plea of guilty, and your good work record but we are not persuaded that you are as remorseful as might be expected and your record is not a good one. The previous offence of grave and criminal assault was a serious one. 3. We have considered carefully the sentence that we should impose but we believe that the conclusions of the Crown are correct and you are accordingly sentenced to 18 months' imprisonment. 4. We also order the forfeiture and destruction of the weapon. 5. We turn now to the question of deportation. This is the second time that you have been convicted; you have previously been convicted for a grave and criminal assault and this is the second time you have been convicted for an offence of serious potential violence. We are satisfied that the first limb of the *Camacho-v-AG*

[2007] JLR 462 test has been passed and we have thought most anxiously about whether or not we should recommend your deportation from the Island at the conclusion of your sentence. It is by the narrowest of margins that we conclude that we should not, on this occasion, recommend your deportation. Please understand that should anything like this happen again, the Court will almost inevitably consider that you should be subject to a recommendation for deportation. We are giving you one last chance. Authorities *Camacho-v-AG*

[2007] JLR 462 . Whelan on Aspects of Sentencing in the Superior Court of Jersey (3 rd Edition). *AG v Burrell and others*

[2003] JLR N 53. *AG-v-Burrell and others*

[2003] JRC 209 . *AG v Heard*

[2012] JRC 132 . AG v De Carvalho and Richomme

[2014] JRC 213A . Page Last Updated: 13 Apr 2016 BAILII: Copyright Policy | Disclaimers | Privacy Policy | Feedback | Donate to BAILII

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