

JERSEY / JUDGMENT

AG v Franco [2001] JRC 123 (30 May 2001)

[2001] JRC 123

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JUDGMENT

THE DEPUTY BAILIFF: 1. This applicant has lodged a notice of application for leave to appeal against sentence to the Superior Number from the decision given by the Inferior Number on 24th May. On that occasion the Inferior Number sentenced him to a total of 12 months' imprisonment for a number of offences for which he had been placed on probation in December 1999 and to 4 months' imprisonment, concurrent for the possession and supply of a Class A drug. 2. The principles which govern the granting of bail, pending appeal are well established. The most authoritative decision in this jurisdiction is that of *Stevenson-v-AG*

(1999) JLR 103 where the Court of Appeal endorsed the approach which the Royal Court had adopted in a number of cases, which in turn was based upon the English case of *R-v-Watton* (1978) 68 Cr. App. R. 293. The position is that bail is granted, pending appeal, only where it appears, prima facie, that the appeal is likely to be successful, or where there is a risk that the sentence will have been served by the time the appeal is heard. The test is whether there are exceptional circumstances which would drive the Court to the conclusion that justice can only be done by the granting of bail. We must, therefore, consider whether there are exceptional circumstances in this case. 3. The first exceptional circumstance referred to is where it appears prima facie that the appeal is likely to be successful. Mr. Chapman has argued that it is possible, indeed even probable, that the Superior Number will overturn the decision of the Royal Court in this case, either by imposing a non-custodial sentence, or by reducing the period of imprisonment. He will, of course, be able to make all the arguments he wishes before the Superior Number, but we did not think that this is a case where it appears prima facie that the appeal is likely to be successful. This was a case where the appellant had been in breach of a probation order on 2 occasions and where the Court decided that he had not taken advantage of the opportunities which had been given to him. 4. The second exceptional circumstance referred to is where there is a risk that the sentence will have been served by the time the appeal is heard. We do not think that that is applicable. We see no reason why this appeal should not be heard within a period of 6 to 8 weeks and there is no question of the sentence of 12 months having being served by that time. 5. We have considered whether there are any other exceptional circumstances. Mr. Chapman has referred to the fact that the financial hardship to the appellant is considerable because he is the breadwinner and the appellant's wife suffers from medical problems, to which he has referred and which

could have serious consequences, but we do not regard either of these as being exceptional circumstances. In the circumstances we refuse the application for bail, but we direct the Greffier to make arrangements to bring this appeal on within as short a period as possible and we certainly would not expect it to take longer than the 6 to 8 weeks referred to. Authorities Stevenson-v-AG

(1999) JLR 103 CofA. R-v-Watton (1978) 68 Cr. App. R. 293 Page Last Updated: 22 Sep 2015 BAILII: [Copyright Policy](#) | [Disclaimers](#) | [Privacy Policy](#) | [Feedback](#) | [Donate to BAILII](#)

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