

JERSEY / JUDGMENT

AG -v- Frankowski [2015]

JRC 080 (24 April 2015)

[2015] JRC 080

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JUDGMENT

THE BAILIFF: 1. You are here to be sentenced on an Indictment which contains one count of affray and three counts involving driving offences; driving whilst intoxicated, driving without a licence and driving without insurance. Of these the affray charge is the most serious and I am going to deal with that first. 2. You went into Longueville Food Hall; you had clearly been consuming alcohol and you were aggressive. The staff refused to serve you and you took out a knife from your fleece pocket; you kept the sheath on the blade and, after showing it to the three members of staff at the till, you returned it to your pocket. Two of the three members of staff were very frightened. Perhaps, rather strangely, during the course of this incident a customer entered the store and the remaining shop assistant re-entered to serve that particular customer. 3. You need to know that knife crime is treated extremely seriously in this Island. Almost invariably it leads to a prison sentence being imposed and it would have led to a prison sentence in this case had you not already served approximately 4 months in prison. But because you have, and because there is a considerable amount of mitigation, the Court is going to avoid a prison sentence in this case. Because it is so unusual I just want to set out some of the reasons so it is clear as to why we have taken this decision. 4. The first, and one of the most important, is that the knife remained sheathed and you did not threaten with it. The second is that it is clear that the incident cannot have been perceived as an emergency or the third shop assistant would not have re-entered the shop to serve another customer. The third is your personal mitigation that you are aged 35, not only previously of good character, but clearly from a stable background and have helped others in the Island in a number of different ways, all as set out in the reports. And so the Court accepts that this incident was completely out of character and was exceptional but suddenly you, to use the English expression, "have gone off the rails". Even so, I have to tell you that had you not served 4 months in custody it would have been a custodial sentence. 5. In the circumstances on Count 1 we are going to sentence you to 180 hours' Community Service Order and the alternative would have been 12 months' imprisonment. I must warn you that if you do not perform the community service then you will be liable to be brought back to this Court and sentenced again. 6. I come next to the driving offences. Normally these offences would, in our judgment, have resulted in a financial penalty. It is clear from your personal circumstances and those circumstances were indeed part of the reason, we think, for the offending, that you cannot

afford to pay a fine and in those circumstances we have to find some other sentence. Because we do not think that these driving offences would have merited a custodial sentence, we do not think community service is available to us and accordingly, we intend to place you on probation for each of the driving charges, Counts 2, 3 and 4 for a period of 12 months. In the probation report there are a number of suggestions from the probation officer as to how the Probation Order could be used constructively and we have taken that very much into account in deciding that this is the right sentence to impose so that the combination of the time which you have served already and the Community Service Order and the Probation Order in the context of the charges on the Indictment provides proper punishment as well as something constructive for the future. 7. In addition to the Probation Order you will be disqualified from holding a licence for a period of 2 years. The Probation Order means that you must act in accordance with the directions of the probation officer and, again I must warn you, that if you breach the terms of the Probation Order you are liable to be brought back to this Court when you can be sentenced again. Authorities AG v Heard

[2012] JRC 132 . AG v McDougal

[2010] JRC 072 . AG v Bree

[2005] JRC 177 . AG v Bailey

[2009] JRC 077 . Page Last Updated: 27 Sep 2016 BAILII: Copyright Policy | Disclaimers | Privacy Policy | Feedback | Donate to BAILII

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Prepared on 25 October 2026 · Esheria