

JERSEY / JUDGMENT

AG -v- Gouveia [2011]

JRC 095 (06 May 2011)

[2011] JRC 095

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JUDGMENT

THE DEPUTY BAILIFF: 1. Mr Gouveia, you are here to be sentenced on an Indictment which contains counts of obstructing a police officer in the execution of his duty and possession of the Class A drug heroin, that is a simple possession and not possession with intent to supply. As a result of the counts on that Indictment you are in breach of a previous Order of the Court and you fall to be sentenced on the offence of affray as well. 2. The Crown has moved for conclusions which the Court thinks are right. The most serious of these offences is the case of possession of heroin and we apply the test set out in AG-v-Buesnel

[1996] JLR 265 where this Court said this:- "In most cases, possession of a Class A drug, even if the quantity is very small, should attract punishment. Whether that punishment involves a custodial sentence or the imposition of a fine or community service order will depend upon the particular circumstances of the offence and of the offender. If the quantity of drugs cannot be described as small, or other aggravating factors are present, a custodial sentence should usually be imposed." In this case there is the aggravating factor that you are in breach of a previous order of the Court and the quantity involved is such that a custodial sentence is, in our view, inevitable. Furthermore, the background report and the drug and alcohol report makes it plain that no non custodial order is recommended. The Court thinks that the conclusions of the Crown are absolutely correct. 3. Your Counsel has said everything that could be said on your behalf and pointed out the personal mitigation points which apply and we have taken account of those. But what they do emphasise is that the consequences of heroin addiction are dramatic in the personal life of the person who is addicted and you simply must tackle that addiction otherwise your life is going to get worse and worse. Therefore it is pleasing to hear that you are seeing the drug counsellor weekly in prison and, indeed, we think that the time which is spent in prison can only be to your advantage because you will get that support which is available to you. 4. Accordingly on Count 1 of the Indictment you are sentenced to 2 weeks' imprisonment; on Count 2 to 6 months' imprisonment, consecutive, making a total of 6 months and 2 weeks. On the matters under the breach of probation, the First Indictment of affray, you are sentenced to 3 months' imprisonment, which is to be served consecutively to the present Indictment. There will be no further penalties on possession of cannabis and

possession of heroin charges, and therefore you are sentenced in total to 9 months' and 2 weeks' imprisonment. 5. We order the forfeiture and destruction of the drugs. Authorities Misuse of Drugs (Jersey) Law 1978. AG-v-Gouveia and Uddin

[2010] JRC 189 . AG-v-Buesnel

[1996] JLR 265 . Page Last Updated: 18 Aug 2016 BAILII: Copyright Policy | Disclaimers | Privacy Policy | Feedback | Donate to BAILII

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