

JERSEY / JUDGMENT

AG -v- H [2015] JRC 162 (31 July 2015)

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JUDGMENT

THE BAILIFF: 1. You are here to be sentenced on an Indictment which contains two counts, one of assault and one of grave and criminal assault and, as a result of those offences, you are also in breach of a Probation Order and therefore fall to be sentenced again for the breach of that Probation Order imposed by the Magistrate. 2. The circumstances were that you had been drinking a considerable amount and, under the influence of alcohol, you had punched the first victim, aged 17, in the face. You had known him well and were friends with him and the punch was delivered for no apparent reason; it was an unprovoked attack, and fortunately it did not cause any significant injury. The grave and criminal assault is more serious. Having had a scuffle with the second victim, you had been holding a bottle of beer which broke in the scuffle, you grabbed the bottle neck and you struck the victim in the face with the broken end of that bottle. It is clear that you must have struck him at least twice. There was a severe cut over the bridge of the nose. There was a severe cut to the throat, which could have been fatal, and I am sure you realise that, and there was also a cut on the forehead and on the arm but those were not as deliberate attacks, they were more superficial scratches. The Crown, in its summary, says the injury to the neck could have been life-threatening and the injury to the bridge of the nose could easily have blinded the victim and that really does go to emphasise how serious these assaults were. 3. The Crown's conclusions are that you should be sentenced to a total of 12 months' youth detention, 4 months on Count 1, 12 months', concurrent, on Count 2 and 3 months' youth detention, concurrent, on the breach of Probation Order and, having given the matter careful thought, the Court considers that those conclusions are right. I am going to tell you why we think so. 4. The Criminal Justice (Young Offenders)(Jersey) Law 1994 requires that we do not impose a sentence of youth detention on anyone who is under the age of 21 unless the terms of Article 4(2) of the Law are met and that is to say that we think that there is no other way of dealing with you. We think that is so in this case for two reasons. The first is that we think that this particular offence is so serious that no other sentence is appropriate for dealing with it. We recognise, of course, that there have been other occasions where what I call 'glassing offences', have been treated by the Court as not so serious as to require a custodial sentence, and that may be so in those other cases but each case depends on its own facts, and that is not the view that we take of this particular case. The other reason is that other orders/sentences have been imposed on you where non-custodial orders have been imposed and those have been tried without success. You do not pay any attention and you are going to have to learn to pay attention. 5. We have taken into account

everything that your counsel has said on your behalf. We recognise that you cooperated with the police; we recognise that you pleaded guilty; that you have not made claims to self-defence and provocation, and we recognise the statements that you want to get a job and that you are sorry, and, indeed, I want you to know that we have read your letter and it is a good letter. We have thought about that and everything you have said but it does not take us away from the conclusion that we need to impose the sentence of youth detention because you are here to be sentenced for what you have done and that sentence is imposed having regard to what we think is going to be also in your best interests. 6. Your counsel says that you have used your time in prison constructively and I really want you to listen very hard to what I am about to say now because you can go two ways in your life in the future. Things have not been easy for you, the Court recognises that. We have read the background report; we understand completely that things have not been easy. But, at the end of the day, there is only one person who can make things better in your life and that is you. You need to focus on that because your choices in your life are all going to be choices which you make and nobody else makes them for you. There are consequences for what you do and, frankly, you need to grow up and learn that. You need to appreciate that what you do has consequences and while you are serving your period of youth detention there are three things you need to be thinking about. One is, as you have said to the probation officers, when you drink and become inebriated, you do not act very well - so what is the solution to that? The solution to that is not to drink or certainly not to drink to excess, at your age you should not be drinking at all. The second thing you need to think about when you are in youth detention is using all the courses, the skills that they are prepared to help you with in the Young Offenders Centre, to help you make progress. Those can be used constructively and it is quite obvious that you are an intelligent young man so you can take advantage of that and you should do that. And the third, as I say, is just to remember that your conduct has consequences and that is going to be so whether it is substance misuse, whether it is alcohol or drugs, or whether it is control of your emotions, you just need to think about how you control your life in the future to ensure you are not placed in this position again. You are only 17, you have got all the time in the world to put it right and that is what you must do. That is what you must think about. 7. So you are sentenced to 4 months' youth detention on Count 1, 12 months' youth detention, concurrent, on Count 2. The Probation Order is set aside and discharged and you are sentenced to 3 months' youth detention, concurrent, on the breach of Probation Order and that makes a total of 12 months' youth detention. I must warn you that when you come out of youth detention that you are liable to a period of supervision which will last until such time as the period of remission for good conduct expires. 8. Finally we are going to make an Exclusion Order. It is, again, an order that is being made in your own interests as regard to the fact that these offences probably would not have been committed had you not been drinking so you are excluded from 1 st , 2 nd , th , 5 th and 7 th category licensed premises, excluding the Multiplex Cinema, the Arts Centre, the Airport, the ferry terminal at Elizabeth Harbour and the Opera House for a period of 24 months to run from today's date. Authorities Harrison v AG

[2004] JLR 111 . Whelan on Aspects of Sentencing in the Superior Courts of Jersey. AG v Williamson

[2011] JRC 232 . AG v Capuano

[2013] JRC 084 . AG v Saville

[2007] JRC 110 . AG-v-Furness

[2015] JRC 124 . Criminal Justice (Young Offenders)(Jersey) Law 1994. Licensed Premises
(Exclusion of Certain Persons) (Jersey) Law 1998. Page Last Updated: 16 Jan 2017 BAILII:
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