

JERSEY / JUDGMENT

AG -v- Hartley and Others

[2010] JRC 065 (26 March 2010)

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JUDGMENT

THE BAILIFF: 1. So often when offences like this are committed by youngsters they come from unsettled backgrounds, they have often developed a drug habit and they have poor work records. None of this applies to you. You have all come from supportive and settled family backgrounds, none of you appears to have a problem with drink or drugs and you all have good work records; indeed you were all earning and working at the time you committed this spree of offences; and you only have minor previous convictions which we ignore. Despite this, the three of you engaged, to a greater or lesser extent, in this spree of offending, 19 offences of larceny or breaking and entry or illegal entry. We emphasise that each of you were involved in different offences but nevertheless the total amount involved was over £22,000 and some £2,500 worth is still unaccounted for. Count 18 in particular was a very mean offence and it has clearly caused great distress to the young couple whose wedding presents, and other things, you took. You have disgraced yourselves and you have let down your families. 2. The Crown has moved for substantial prison sentences and you deserve to go to prison. As you can tell from the time we have taken, we have had to consider this very carefully. In fact we have decided that you will not go to prison but you have come within an inch of it. Now, we do agree that there is exceptional mitigation in this case. You have all pleaded guilty and to a substantial extent written your own Indictments. Most importantly, we are satisfied that you really are remorseful; we are satisfied of that from what we have read and also from our observing your demeanour whilst here in Court. We hope and believe that you really have appreciated that you have done wrong. We accept that what you have done is wholly out of character. Each of you has produced voluminous references from a wide variety of friends, colleagues and relatives, which show that there are very good sides to all three of you. You have disappointed them all so much by what you have done. You have good work records, you are young people, your future lies ahead of you and you certainly should feel that you have let everyone around you down. But ultimately, we hope and believe that you have learned your lesson, and that is why we are going to give you a chance. We hope and believe that you will not re-offend and we think that in those circumstances the best way for you to repay society is to carry out a very considerable amount of community service rather than go to prison. But this will not be an easy option, as you will hear in a moment. The periods of community service are substantial to match the substantial prison sentences that were asked for.

You will be devoting every weekend for the foreseeable future to doing work to help other people, rather than steal things from their houses. 3. Hartley, we think the correct overall sentence for you would have been 2½ years' imprisonment rather than the 3 years moved for by the Crown, and we therefore are going to impose a total of 384 hours' community service which is the equivalent of that and we are also going to impose a Probation Order as requested. 4. Godel, we think that you were the next most responsible but we do think you were less responsible than Hartley so we have adjusted the Crown's conclusions slightly. We think the total sentence for you would have been 2 years' and 3 months' youth detention and therefore the total community service is going to be 348 hours. 5. McIntyre, we think 2 years' imprisonment and a total of 312 hours' community service is appropriate. 6. I am now going to have to go through each offence but that is the overall sentence and before I come to the hours let me just say this. You have been extremely fortunate all of you, but you must understand the position you are in. If you do not turn up for community service or if you skive when you are on it and do not behave properly, or in the case of a probation order, if you do not do exactly what the probation officer tells you, then you will be brought back here and if you are brought back, I think you know what is going to happen; we will then activate the prison sentence. So it is entirely up to you, you have been given a very fortunate chance. If you re-offend or if you do not comply with the Probation Order or community service, you will be back here and then there can be no alternative but to send you to prison. 7. Hartley, Count 1; 70 hours' community service, Count 2; 70 hours' community service, Count 3; 70 hours' community service, Count 4; 100 hours' community service, Count 5; 90 hours' community service, Count 6; 240 hours' community service, Count 7; 312 hours' community service, Count 9; 240 hours' community service, Count 10; 312 hours' community service, Count 11; 100 hours' community service, Count 12; 312 hours' community service, Count 13; 120 hours' community service, Count 14; 348 hours' community service, Count 15; 100 hours' community service, Count 16; 348 hours' community service, Count 17; 100 hours' community service, Count 18; 384 hours' community service, Count 19; 312 hours' community service. All of those concurrent, therefore it is 384 hours in total and, as we say, is the equivalent to 2½ years imprisonment and you are also placed on probation for 12 months. 8. McIntyre, Count 3; 70 hours' community service, Count 4; 100 hours' community service, Count 5; 90 hours' community service, Count 7; 312 hours' community service, Count 10; 312 hours' community service, Count 12; 312 hours' community service, Count 13; 120 hours' community service, Count 19; 312 hours' community service, all to run concurrently so that is 312 hours' in total, an equivalent to 2 years' imprisonment. 9. Godel, on the First Indictment: Count 6; 240 hours' community service, Count 7; 312 hours' community service, Count 8; 240 hours' community service, Count 9; 240 hours' community service, Count 10; 312 hours' community service, Count 14; 348 hours' community service, Count 15; 100 hours' community service, Count 16; 348 hours' community service, Count 17; 100 hours' community service, Count 18; 348 hours' community service, Count 19; 312 hours' community service, and on the Second Indictment: Count 1; 100 hours' community service, that makes a total of 348 hours' community service because they are all concurrent and the equivalent to 2 years' and 3 months' youth detention. 10. Now we shall add this, we mentioned the question of Compensation Orders; you have caused loss to other people, much has been recovered but some has not. Two of you have substantial savings and we see no reason why you should be

entitled to keep these savings. These savings should be given to those whom you have deprived of their goods and whom you have caused loss to. So we are going to direct that there be an adjourned hearing for the Compensation Orders; the Crown must bring it back with reasonable despatch and we would suggest, although we don't order it, that Hartley with £1,000 and McIntyre with £1,500, might like to consider paying this to the Viscount now so that it can sit there ready to be allocated when a Compensation Order comes. We see no reason why you should keep your money when other people are out of theirs. We hope that we do not see you again. Authorities Whelan on Aspects of Sentencing in the Superior Court of Jersey. AG-v-Kean

[2010] JRC 004. AG-v-Fernandes and Mendes

[2008] JRC 066 . AG-v-Rawlinson

[2008] JRC132. AG-v-Soares and Aguiar

[2008] JRC 015 . AG-v-Da Silva 1997/218. Page Last Updated: 02 Aug 2016 BAILII: Copyright Policy | Disclaimers | Privacy Policy | Feedback | Donate to BAILII

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Prepared on 24 October 2026 · Esheria