

JERSEY / JUDGMENT

AG -v- Howard [2015]

JRC 074 (17 April 2015)

[2015] JRC 074

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JUDGMENT

THE DEPUTY BAILIFF: 1. You have pleaded guilty to three charges, namely breaking and entering and larceny, attempted larceny and malicious damage and all of these offences took place as part of the same incident and whilst you were under the influence of substantial amounts of alcohol. The premises that you entered were commercial, a local hotel, and during the course of the incident, you pushed the night porter who came to investigate, off-balance. This demonstrates the risk of confrontation that is almost always present in cases of breaking and entering. 2. You do not have a good record and clearly you have struggled with your inappropriate use of alcohol, and there was no excuse for these offences and were clearly caused by the excess alcohol you had consumed earlier in that evening. As I am sure you are aware, intoxication is not a mitigating factor, it is an aggravating factor. You have pleaded guilty and your letter is indicative of remorse, which we accept. Breaking and entering and larceny from commercial premises at night puts you squarely in the area of the case of AG-v-Gaffney

[1995] JLR N22b to which the Crown has referred, and in which a focal point of 18 months for these types of offences is identified. But we have given very careful consideration to the real prospect that you have now seen the error of your ways. We detect the signs that you seem to be gaining an insight into your relationship with offending and with alcohol and the link between them. 3. Accordingly, we feel able to depart from the conclusions of the Crown and, to mark our view of the seriousness, you will complete a Community Service Order of 180 hours', which is the equivalent to a sentence of 12 months' imprisonment. In addition we impose a Probation Order on you for a period of 12 months coupled with a Treatment Order, meaning that you must attend the Alcohol and Drug Service for a period of 12 months, that you must abstain from illegal and non-prescribed substances, which will be confirmed as necessary with random and routine testing, and that you comply with the treatment goals agreed with the Alcohol and Drug Service. To the malicious damage charge we sentence you to 50 hours' Community Service, equivalent to 1 month's imprisonment, concurrent, making a total sentence of 180 hours' Community Service Order together with a 12 month Probation and Treatment Order. 4. You must understand this Court has been invited to take what might be characterised as a high-risk strategy and has agreed, on this occasion, to do so. We are impressed by the reports and the possibility

that you have seriously changed your attitude but this is positively the last chance. If you breach this order you will inevitably be back before the Court and you will inevitably face the very real prospect of a significant period in prison. If you offend again in the future, it will be very hard indeed for the Court to approach the matter in this way again. Take this opportunity, it is your last. Authorities AG-v-Gaffney

[1995] JLR N 22b. Archbold:-Pleading, Evidence and Practice in Criminal Cases, 36th Edition. Whelan on Aspects of Sentencing in the Superior Courts of Jersey, 3rd Edition. AG v Howard

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