

JERSEY / JUDGMENT

AG -v- Huet [2015] JRC 209 (09 October 2015)

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JUDGMENT

THE commissioner: 1. The defendant stands to be sentenced for one count of breaching an Exclusion Order on 7 th June, 2015, and one count of common assault committed on the same day in Conway Street in St Helier. The defendant has previous convictions for assault, the last being on 13 th June, 2014, when he was sentenced to 9 months' imprisonment for a grave and criminal assault and made subject to an Exclusion Order for 12 months to take effect from his release from prison, which was on 11 th December, 2014. It is that order which he has now breached. 2. The Court on that occasion had some very good things to say about the defendant, quoting from the judgment at paragraph 1 (AG-v-Huet

[2014] JRC 130A):- "Now Huet, you have much to be proud of. You have overcome a most difficult upbringing, you have an excellent work record which is supported by the fact that your employer, quite apart from writing a glowing reference in your support, has taken the trouble to come to Court to support you. You have a stable relationship with your partner and now you have a daughter to whom it is clear you are a devoted father. But there appears to be another side to you. Your trouble is that when you drink you become aggressive and you become prone to react violently to actual or perceived provocation." 3. On 7 th June, 2015, the defendant had been drinking at home; he went into St Helier and into licensed premises in order to collect his girlfriend but, he says, not to drink there. There was then an altercation in the street during which he struck the victim, who had also been drinking, in the mouth with an open hand, causing him to fall to the ground, suffering an injury to the back of his head. The defendant and his girlfriend then ran away. The victim was discharged from hospital the next day and, as far as we can see, there have been no lasting repercussions other than scarring to the back of his head. 4. The defendant is still assessed at a low risk of reoffending because he is in a stable relationship, has a good work record and, notwithstanding this incident, has reduced his alcohol consumption helped by the Exclusion Order. As the social enquiry report says at paragraph 15:- "Clearly the main themes in his offending behaviour involve him in becoming argumentative or aggressive when under the influence of alcohol and also reacting aggressively when feeling disrespected. It is evident that his misuse of alcohol and resultant behaviour lacks rational thought and also any consideration for the

consequences to himself and for others." 5. We reiterate the policy of the Court in relation to drink-fuelled violence in the streets of St Helier, namely that it will attract a custodial sentence unless there are exceptional circumstances but, as Advocate Harrison has pointed out, that policy has been expressed in the context of grave and criminal assaults and in this case we are dealing with a common assault, which covers a wide range of conduct which does not always cross the custodial threshold. We think that there was some provocation by the victim, making sexual remarks about the defendant's girlfriend, and they both squared up to each other, the defendant striking first with an open hand, and there was no further violence once the victim was down, which we so often see in this Court. 6. This is still an assault in the streets of St Helier which, ordinarily in our view, would cross the custodial threshold but the defendant has very considerable mitigation which, in our view, just tips the balance towards a community sentence. That mitigation includes his guilty plea; his cooperation with the police; his clear remorse, his residual youth; his exemplary work record; his early background as described and set out in the social enquiry report, and the fact that he is assessed at a low risk of reoffending. We do think the defendant, and indeed the community, will benefit from the defendant undertaking the programmes set out in some detail in the social enquiry report:- (i) The six-session Alcohol Study Group; (ii) Attendance on the Aggression Control Training programme (ACT); and (iii) Discussions regarding the defendant's childhood experiences and how they have impacted upon his behaviour as an adult with a possible referral to Jersey Talking Therapies or to the Psychology Department. 7. On Count 1 you are sentenced to 20 hours' Community Service Order, which is the equivalent to 2 weeks' imprisonment, on Count 2 you are sentenced to 140 hours' Community Service Order, equivalent to 8 months' imprisonment, consecutive. That makes a total of 160 hours' Community Order, equivalent to 8 months and 2 weeks' imprisonment. We also place you on probation for 12 months on the usual conditions, but also on condition that you undertake whatever programmes and therapies that the Probation Department may recommend. 8. We discharge the existing Exclusion Order and impose a further Exclusion Order on the terms set out by the Crown but for a period of 12 months. 9. You have come so close to being placed back in prison again, you do understand that, but you have got much good going for you. You really now do have to address this problem of your aggression if you drink. We are encouraged by what you say about controlling the amount of alcohol that you are going to take, you are going to keep it to social drinking, and you have to understand that if you come back before this Court again for a similar sort of offence, we will not be able to help you again. Authorities AG-v-Huet

[2014] JRC 130A . Criminal Justice (Compensation Orders)(Jersey) Law 1994. Harrison-v-AG

[2004] JLR 111 . AG-v-Rocha

[2012] JRC 143 . Whelan on Aspects of Sentencing in the Superior Court of Jersey. Page Last Updated: 27 Sep 2016 BAILII: Copyright Policy | Disclaimers | Privacy Policy | Feedback | Donate to BAILII

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