

JERSEY / JUDGMENT

AG v James CMP AKK [2003]

JRC 224 (03 December 2003)

[2003] JRC 224

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JUDGMENT

THE DEPUTY BAILIFF: 1. James you are 33 and you have only one minor previous conviction and yet you are now before the Court for this array of offences. It appears to have been caused by an unfortunate combination of circumstances when your son was injured and a whole number of teenagers began to visit your home. Your husband objected to this but you asked him to leave and you then appear to have completely lost control. 2. You permitted them to behave in an unacceptable manner, and indeed you joined in with them. You neglected your children to the extent that they had to be taken into care and you had sexual intercourse with two of the teenagers aged 15. However, we do accept that, as the various reports that we have seen state, this was more the case of an ill-considered response of a confused vulnerable and immature woman rather than a calculating or predatory act. In particular with relation to the sexual intercourse, we accept that there was no element of grooming or preparation on your part; as the reports make clear it was fuelled by emotional need. 3. We think the most serious aspect of your offending is the neglect of your children, and we hope that you think the same. We accept that there was no physical cruelty but you failed them dismally as a mother. We cannot fault the Crown's conclusions of an overall sentence of 12 months' imprisonment, although we do not agree with the way they have weighted the different offences. We will come to that in a moment. 4. The question for us is whether we in fact have to impose a prison sentence or whether there is an alternative. In this respect we have been much influenced by the need for you to re-establish the relationship with your children and we think their interests are very important. We are also influenced by the fact that you have had a good character up until now, by the support of your family, who have come to Court, and by their views and the views of the experts that this was wholly out of character. 5. We also accept that you were not a leader encouraging these teenagers to commit these offences. If we had thought that then there would be no doubt that prison would be the answer and indeed a longer prison sentence than the Crown had moved for. We accept that this was something which occurred as part of a crisis in your life. Nevertheless, as the mother of four children you should never have allowed any of this to happen. You must, therefore, accept responsibility for it. 6. Having regard to all the matters which appear in the reports and what your counsel has said we think we can - just - proceed, by way of non-custodial sentence, particularly bearing in mind that you have already spent the equivalent of 7 months in

custody. 7. We are going to start by saying what we think would have been the correct sentences had we decided to send you to prison. We ought to say this because we are going to impose community service and the law requires us to state alternatives. On the first four counts of cruelty to children we think 6 months' was inadequate, we think 9 months' is the least sentence which would have been proper for that. On the indecent assaults we think 15 months' is far too high, given the particular facts. We have noted the case provided by Mrs Pearmain and we would have imposed a sentence of 6 months on counts 10, 12 and count 2 of the second indictment. Count 13, 6 months; count 14, 12 months; count 15, we will impose a fine of £100 with one month in default; on count 16, carrying children not wearing seat belt, we will impose a fine of £50 with two weeks in default, consecutive; for failing to stop and report an accident, (count 18) we will impose a fine of £400 with one month in default consecutive; count 19, 6 months'; and on the second indictment, on count 1, we would have imposed 6 months. We impose 6 months' disqualification on count 18 and; and 24 months' disqualification on counts 19 and count 2 of the second indictment. 8. In relation to all those offences where we would have imposed prison we impose a community service order of 110 hours. That makes allowance for the fact that you have spent the equivalent of 7 months on remand. We also impose a probation order for 2 years so that you will have some help from the Probation Service in re-establishing a relationship with your children. So you can consider yourself very fortunate. We hope very much not to see you before this Court again. 9. The other matter I did not mention is that you have 1 month in which to pay the fines failing which the default sentences will take effect. 10. C. M. P. you have an appalling record for one so young. According to the Report you have been before the Court on some 8 or 9 occasions for nearly 140 offences, usually motoring. The Court has tried probation but you have taken no advantage of this and it is clear from the reports that you are not very interested in going on probation again. 11. We are quite satisfied that you have a history of failure to respond to non-custodial penalties and are unable or unwilling to respond to them. There is therefore no alternative to youth detention. Because of your age there is a statutory maximum of 12 months and we entirely agree with the Crown that that is what ought to be imposed. We, therefore, grant the Crown's conclusions, save we think that for convenience all those cases where they moved for 18 months ought to be 12 months and on the cases of driving whilst disqualified they move for the statutory maximum of 12 months. We think it ought to be 9 months for each of those offences. On all the counts that they have moved for disqualification we impose 2 years disqualification. 12. I must warn you that you may be liable to supervision when you come out of youth detention. We can only hope that you are beginning to learn your lesson. If not you will just go back to youth detention over and over again, and if that is the way you want to live your life so be it. We very much hope that you will try and mend your ways when you come out. 13. AKK you too have got a poor record for one so young, although it is nothing like as bad as CMP's. We accept that the relationship with your mother is at the heart of some of your difficulties and that you need to work on this as you are trying to do now. 14. We have had regard to the reports and to the progress you have been making, and we also take account of your age and of the requirements of Article 4 of the 1994 Law. In all the circumstances we agree with the Crown and with the Probation Service that you do not need to go to youth detention on this occasion. We are going to impose a Probation Order of 18 months' and we are also going to say that you must, therefore, do

any courses which you are directed to do by the Probation Service. This will be the SMART course and the ACT course as well. 15. We did consider imposing community service as well; but we have decided not to, because the various courses which you are going to attend will take up considerable time and we wish to give you the best possible chance of succeeding at them. You must count yourself lucky. You too are heading for regular periods of youth detention unless you mend your ways and certainly if you do not do exactly what the probation officer says, if you do not turn up exactly on time to all these courses, if you re-offend, then you will be brought back here and there will no alternative then but for the Court to send you to youth detention.

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