

JERSEY / JUDGMENT

AG v JD [2024] JRC 266 (03 December 2024)

[2024] JRC 266

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JUDGMENT

THE DEPUTY BAILIFF: 1. This is an application by the Crown to remit a case to the Youth Court for sentencing under Article 47 of the Criminal Procedure (Jersey) Law 2018 ("the Law"). Under Article 47(2) circumstances which may justify the remitting of a case to the lower court include where " the nature or gravity of the offence has changed or reduced to the extent that the Magistrate would be able to impose any penalty under Article 16" or sub paragraph (b) in circumstances which do not apply on the facts of this case. The Magistrate's Court is defined to include Youth Court under Article (1) of the Law. 2. The circumstances of this case do not need to be set out in detail. Nonetheless this was a serious offence as is clear from the summary and the Defendant, although 17, already has convictions recorded against him although none for an offence of this gravity. Before considering the particular circumstances which led to this application today it is appropriate to have regard to the relevant provisions of the Criminal Justice (Young Offenders) (Jersey) Law 2014 (the "Young Offenders Law") in so far as they affect this Defendant who is, for the purposes of that law, a young person, " a person who has attained the age of 15 years and has not attained the age of 18 years ". 3. Under Article 4 of the Young Offenders Law, a 17 year old is prima facie subject to a maximum sentence of youth detention of 12 months, that is subject to where applicable the grave crimes provision in Article 5 which permits the Court to impose a longer sentence than twelve months where a young person is convicted of an offence that is punishable, in the case of a person aged 21 years or over, with imprisonment for 14 years or more. That includes for these purposes customary law offences. 4. The Defendant in this case pleaded guilty to grave and criminal assault which is a customary law offence on 27 August 2024, that plea being entered in the Youth Court. The Defendant was sent to this Court for sentence owing to the gravity of the circumstances of the offence and was indicted by the Crown in substitution for the offence of grave and criminal assault with an offence of an affray to which he pleaded guilty in this Court on 14 October 2024. Affray at that stage was a customary law offence and the Defendant in principle would still be sentenced on the basis that he had committed a customary law affray. 5. However, four days after he was convicted of affray, on 18 October 2024 the Crime (Public Order) (Jersey) Law 2024 came into force. That law has codified all public order offences in Jersey (including affray) which is now subject to a statutory maximum of 5 years and accordingly a conviction for affray cannot amount to a grave crime under Article 5 of the Young Offenders Law. In those circumstance, although in principle it would be open for the Crown to move for a sentence in excess of 12 months, in accordance with Article

5 of the Young Offenders Law, the Crown has quite properly taken the view that it would be inappropriate to do so and invites us in the circumstances to remit this case to the Youth Court for sentence which we hereby do. That hearing will take place on 17 December at 10 am. 6. We release the Defendant on bail on the current conditions with the warning that will be conveyed to him that notwithstanding the continuation of his bail the Court may in due course impose a custodial sentence. Authorities Criminal Procedure (Jersey) Law 2018. Criminal Justice (Young Offenders) (Jersey) Law 2014. Crime (Public Order) (Jersey) Law Page Last Updated: 05 Dec 2024 Back to top About JLJB Accessibility Contacts Copyright Disclaimer Feedback Privacy policy Site map BAILII: Copyright Policy | Disclaimers | Privacy Policy | Feedback | Donate to BAILII

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