

JERSEY / JUDGMENT

AG v Killen [2022] JRC 032 (04 February 2022)

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JUDGMENT

THE DEPUTY BAILIFF: 1. Myles Killen you can remain seated. You are 22 years old and you were 21 when you committed this largely unprovoked assault on a 17 year old male (who you had not met before) at a party when you were very drunk, smashing a bottle over his head resulting an injury to his ear. You had drunk a third of bottle of gin which is an aggravating feature of your offending. The probation officer said that when the victim fell to the ground after you had hit him on the head with a bottle, he was possibly unconscious. The victim, said he was knocked out. Your reaction was to run away, not to offer any help to the man you just injured with a weapon. 2. We agree with the probation officer that it was fortunate that your victim did not sustain more severe injuries. As to the effect on your victim, he is now concerned about going out in public. He had some time off work; his sleep has been affected and he has experienced headaches and migraines that he did not have hitherto. 3. Since the incident, you have been diagnosed with autism and ADHD which may have contributed to your offending on the night in question. You now have a better insight into your behaviour the probation officer says. We have seen from your letters to us that you demonstrate genuine remorse, particularly for the members of your family who you have let down. Your mother and father are in court today. 4. Your mental health has deteriorated since your offending. You have been prescribed anti-depressants by a psychiatrist. It is said, and we fully accept, that you are at low risk of reconviction. 5. We repeat that the policy of the Courts is crystal clear; the use of a glass or a bottle as a weapon leads to the imposition of a custodial sentence unless there are exceptional circumstances. But there are, we are satisfied, exceptional circumstances in your case. Not merely your guilty plea and good character - they are commonplace - but this offence was not only wholly out of and against your general character. We have read a number of letters written on your behalf. Dr Journeaux, who has known you most of your life, describes you as a person who has grown from a shy child to an introverted young man with a "strong sense of right and wrong." You were bullied at school because of the way you present. You have struggled to fit in socially and clearly exhibit characteristics that fit in with high functioning autism spectrum disorder. As such, your social development has been impaired and you have difficulties communicating with others. You do not find socialising easy, and for a variety of reasons (as revealed by the witness statements) you impulsively reacted to a situation you found yourself in because you simply could not cope, and the reasons that you could not cope

relate to your poor impulse and motor control, lack of understanding of social cues and other matters concomitant with the disorders from which you suffer. 6. Your father tells us in his letter that since this offence you have become withdrawn and, except from attending college, have rarely left your room. The incident has had a profound effect upon you and your whole family, and he describes you, and we accept not merely because he is your father but because what he has said is supported by so many other people who have written on your behalf, that you are a good person with excellent qualities and high moral standards and you made a one-off mistake, mitigated but not excused by undiagnosed mental health issues. So, for that reason we are going to impose a community service order, which is a direct alternative to a custodial sentence of 18 months. 7. You will perform 240 hours of community service. In addition, you will pay £850.00 by way of compensation to your victim. If you fail to do so you are liable to a prison sentence of three weeks. 8. You will pay a £1,000.00 towards the prosecution costs of £3,800.00. You will be required to pay £1,850.00 within 28 days of today. 9. We hope that you can put this behind you, continue with your studies and take advantage of the assistance you are being given by Dr Kaushal and others in order to ensure that if you are ever confronted by a situation remotely similar to the one you were confronted last year then you make different decisions. Authorities Harrison v AG

[2004] JLR 111 . AG v Aubert

[2018] JRC 195 . AG v Poingdestre

[2018] JRC 029. AG v O'Shea

[2010] JRC 040 . AG v Saville

[2007] JRC 110 . Sentencing Council Guidelines - Suggest starting points for physical and mental injuries. Criminal Justice (Compensation Orders) (Jersey) Law 1994. Page Last Updated: 08 Mar 2022 BAILII: Copyright Policy | Disclaimers | Privacy Policy | Feedback | Donate to BAILII

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