

JERSEY / JUDGMENT

AG v Loureiro [2017]

JRC 064 (21 April 2017)

[2017] JRC 064

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JUDGMENT

THE BAILIFF: 1. You are here to be sentenced on two Indictments. The First Indictment charges the possession of an ecstasy tablet. The Second Indictment charges are grave and criminal assault and having in a public place an offensive weapon, which was a piece of wood over a metre in length with a couple of screws or bolts sticking out of it, which you used for the purposes of committing the grave and criminal assault. 2. I am going to take the assault first because that is the more serious offence. There was an element of provocation in connection with the assault and we take that into account. You have had a previous history with the complainant and as a result of that history we have taken the view that there was in all probability an assault which had earlier been committed upon you. Obviously that does not bind a future court but it is what we take into account for the purposes of the sentence today. You say that you were threatened by him, that he would give you another black eye and that is the basis of your plea. You told your girlfriend to call the police and then removed part of a garden fence after an exchange with the complainant, swung the plank of wood at him and caused him serious injury to his hand which required treatment with nine stitches. There was just the one blow, you made no attempt to strike him again and you did not leave the general vicinity until the police arrived. It is an unusual case in that respect and we have taken that into account. 3. We have given careful thought to the question of the medical difficulties which you have. You are clearly an epileptic and there is evidence which suggests that you were probably suffering from a post-epileptical reaction to an earlier seizure. Whatever the medical difficulties you are criminally liable for what you have done. You are to be treated as knowing that you were swinging an offensive weapon and, knowing that it could cause serious injury or reckless that it could, as indeed it did. But we accept the medical evidence that the seizure which you had had before may have led you to be agitated, paranoid, and confused and that might have affected your judgment. 4. Because the circumstances are so unusual we think that it is possible to avoid a custodial sentence in your case. We think that having regard to the time which you have served already it is appropriate that we look at a period of community service which is equivalent to the Crown's conclusions and therefore you are sentenced on that charge of grave and criminal assault to 180 hours' Community Service and the alternative would have been a sentence of 12 months' imprisonment. On Count 2 of that Indictment, for possession of the offensive weapon you are sentenced to 120

hours' Community Service, the alternative would have been 6 months' imprisonment, and on the First Indictment: 50 hours' Community Service and the alternative 1 month's imprisonment. Those will all be served concurrently making a total of 180 hours' Community Service or 12 month's imprisonment. You are also put on probation for a period of 12 months. 5. If you do not perform the Community Service Order or if you breach your Probation Order in any way you are liable to be brought back to this Court and you can be sentenced afresh for what took place. 6. We have given thought to the question of a Compensation Order. The Court does not consider that it is appropriate to make such an order. It is an acknowledgement of the provocation (I use the word loosely), provocation of you by the complainant. 7. The Court orders the forfeiture and destruction of the drugs. Authorities AG-v-Prior

[2002] JLR 11 . Harrison-v-AG

[2004] JLR 111 . AG-v-Bulpin

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Prepared on 26 October 2026 · Esheria