

JERSEY / JUDGMENT

AG -v- Marett [2013] JRC 161 (09 August 2013)

[2013] JRC 161

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JUDGMENT

THE BAILIFF: 1. You have pleaded guilty to one offence of breach of the peace and one of possessing an offensive weapon in a public place, namely a knife. The second offence is, of course, the more serious. You brandished the knife at a group of young people in Liberation Square and then you did this again to two police officers shortly afterwards when they were trying to arrest you, and they were compelled to use CS spray because you refused to drop the knife, despite being repeatedly requested to do so by the police. Now this Court takes a very serious view of the carrying of knives in public, as was said in the case of AG-v-Hare

[2008] JRC 168 :- "...the mere carrying of a knife is a serious matter, because even if it is concealed or carried for bravado or in the belief that its use in possible self-defence might arise, it takes only a moment of irritation or drunkenness, anger, a perceived insult or something utterly trivial, for the knife to be produced with the result that offences of great seriousness may be committed, including of course not only assaults but ultimately manslaughter or even murder." 2. You have a very poor record. Much of it, of course, is not related to violence, it is related to offences of dishonesty and other matters but you have a previous grave and criminal assault and you have previously used a knife to threaten back in 2000. You have been placed on probation some four times and on three of those occasions you have breached it by re-offending. That includes, of course, the present case when the breach of the peace was in breach of a Probation Order. 3. Now in mitigation we take into account that you pleaded guilty straightaway, we also take into account the delay and we want to make one or two observations on this because we find the delay in prosecuting the breach of the peace quite inexplicable and quite unacceptable. There has, of course, been no delay in prosecuting the possession of an offensive weapon but the breach of the peace, which involved your putting your telephone over toilets down at the Marina, took place in August 2011, yet you were not charged until January 2012. That seems a highly unacceptable delay. Then you absconded in March 2012 and there was then a delay until you were arrested in December 2012 for the knife offence but then, when you were presented in the Court on 2 nd January, 2013, for the knife offence, so you were then facing the two charges, you were not committed until 30 th April. Now, we understand that issues arose as to whether there was a sexual motive in the breach of the

peace, but this was an unacceptable delay again, some four months. Of course the large part of the delay was at your door because you did fail to appear in March 2012 in relation to the breach of the peace and you only came to the notice of the police at the time of the knife offence in December 2012. We have to express some surprise that you were not arrested in the meantime for your failure to appear. You remained in Jersey, though you may not have been at the same address; but your mother was still there and your other relatives and no doubt enquiries could have been made of them. It seems that no effort or very little effort was made to find you despite the fact that it was being suggested at that stage that this was a sexually motivated offence and was therefore more serious. So we shall be asking Crown Advocate Yates to enquire as to what efforts were made because if people do not turn up to court, then efforts should be made to arrest them and bring them before the court. What we do confirm is that the Crown has fully accepted that there was no sexual element in the breach of the peace, you were simply using the mobile phone to see if there were any items to steal in the toilets and we proceed on that basis. We also take into account the illness of your mother and we have read the letter from you and it is clear that you have been looking after her and that your going into custody will have an effect on her. 4. We have paid careful regard to the recommendation in the background report that, notwithstanding your previous failures to respond to probation, and notwithstanding your previous convictions, the Court should proceed by way of a non-custodial sentence, namely probation and community service. But in our judgement this offence was far too serious to justify such a course of action. Given your previous record and the threatening use of the knife, and given the Court's policy generally on the possession of knives, we cannot accept that this can be dealt with by way of a non-custodial sentence. Furthermore we think, given all the factors, that the Crown has made sufficient allowance. We hope very much that when you are in custody you will take advantage of the courses in prison, both the psychological one, which is recommended in the report, and anything to help with alcohol and drugs. 5. The sentence of the Court on Count 1; 3 months imprisonment, on Count 2; 21 months' imprisonment, concurrent. That makes a total of 21 months' imprisonment in all. 6. We order the forfeiture and destruction of the knife. 7. We make no order on the breach of probation. 8. We repeat Mr Yates, we would like to know two things. First of all we would like to know what efforts were made to track down this defendant between March and December 2012. It seems extraordinary that he could remain at liberty notwithstanding his family and the fact that he remained in the Island. And as we say, particularly given the fact the Prosecution were apparently taking the view that his breach of the peace was rather more serious than it now is because it was thought to have a sexual motive, if the Prosecution were worried about that and the police were worried about that, it seems extraordinary that it seems so little effort was made to find him. We also would like to know more about why it took so long to charge him and we appreciate that they were looking into whether there was a sexual motive but from August 2011 to February 2012 seems quite an unacceptable delay for a charge of breach of the peace. Authorities AG-v-Hare

[2008] JRC 168 . AG-v-Gomes

[2013] JRC 020 . AG-v-Heard

[2012] JRC 132 . Page Last Updated: 16 Sep 2016 BAILII: [Copyright Policy](#) | [Disclaimers](#) | [Privacy Policy](#) | [Feedback](#) | [Donate to BAILII](#)

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