

JERSEY / JUDGMENT

AG v Martin [2005] JRC 011 (21 January 2005)

[2005] JRC 011

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JUDGMENT

THE COMMISSIONER: 1. We have had close regard to the Court of Appeal judgment in *Harrison -v- A. G.* [2004]JCA046, which gives sentencing guidance in matters of this kind. The Court of Appeal, in that helpful judgment, spoke of deliberation with which the assault was carried out. This was clearly not a sudden attack on a stranger in a nightclub arising on the spur of the moment; it was apparently planned with some care. 2. The Crown Advocate has taken us through the facts with his usual care. Whether the blow was aimed or at random, this was a sustained attack involving punching, perhaps kicking, and biting. Whether the offence arose as a result of loss of temper or was committed in cold blood, this was, as the circumstances have been clearly outlined to us, an act of revenge. 3. It took time to put in to operation, and we have also to look at the degree of force with which the blow, or blows, must have been struck. There were many apparent facial injuries and many other injuries shown to us in the disturbing photographs. Even the arrival of police officers did not stop the assault occurring. There were fortunately, and perhaps surprisingly, when one looks at the photographs, no lasting injuries. Although a kitchen knife was carried, it was not used at any time. 4. The nature and extent of the provocation looked at subjectively, and it was serious provocation. What is more, this was an unusual case. In fact I can go as far as to say, it is as unusual a case as we have come across in many years. 5. First, we have a detailed letter from the complainant which exonerates the defendant and specifically asks for compassion. Even more unusually, the defendant, as a qualified and professional man, is still working with the complainant, under strict conditions, in the same office. We have a helpful report from Mr Hollywood, which shows again, the extraordinarily difficult upbringing and the obsessive behaviour of the defendant, which is medically recognised. The letters in mitigation we have received, are again, it appears to this Court quite extraordinary. We cannot in any way support this type of action but as we have said, the background is unique. 6. The defendant has no record, and will be twenty-eight tomorrow, and we feel, in the circumstances, a payment back to the community would be a fair way to deal with the matter. 7. We are going to sentence you to 180 hours' community service on Count 1, and a 120 hours on Count 2 and they are both concurrent. I have to tell you this, had it not been for the truly exceptional circumstances of your case, the Court was considering a sentence of 12 months' on Count 1; and 6 months' imprisonment on Count 2. Authorities *Harrison -v- A. G.* [2004]JCA046. *A. G. -v- Laverty*

[2004]JRC159. A. G. -v- Harrington [2004]JRC106. Whelan: Aspects of Sentencing in the Superior Courts of Jersey (Up-dated 2 nd Ed'n): paras 727 - 760; paras 708 - 712(B); paras 812 - 824. Page Last Updated: 14 Jul 2016 BAILII: [Copyright Policy](#) | [Disclaimers](#) | [Privacy Policy](#) | [Feedback](#) | [Donate to BAILII](#)

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