

JERSEY / JUDGMENT

AG -v- Moon [2016] JRC 214A (18 November 2016)

[2016] JRC 214A

Source: bailii.org · Research copy typeset by Esheria. Not court-issued or certified.

JUDGMENT

THE commissioner: 1. I am going to deal first with costs. Where a prosecution is not proceeded with then the starting point is that the prosecution are likely to be ordered to pay the costs. The principles were set out in AG-v-Gouveia

[2000] JLR 324 and I apply those principles. In this case, although the prosecution has proceeded on the harassment charge, all the others have not been proceeded with. It is an unusual case though, because it is not that the prosecution have decided that there is insufficient evidence or there has been an acquittal or that they have decided not to proceed on the grounds of public interest, which is something they might have known from the outset. This is a case where the defence have raised the issue of mental capacity. I think it entirely proper that the prosecution were proceeding until receipt of Dr Harrison's report on 19 th May which raised that issue. 2. I also think it entirely reasonable that the prosecution should have taken time to get a report of their own in order to see whether the opinion of Dr Harrison was supported. However, I do not think it reasonable that they waited as long as they did. I understand why they did, and it is clear that there were a number of discussions going on. But it is not ultimately purely a question of reasonableness. It is very often reasonable for the prosecution to prosecute but when they lose they have to pay the costs. In my judgment fairness suggests that we should allow say six weeks from 19 th May for the prosecution to think about things and instruct another expert and get a report. That would take us up to end of June. I think therefore that the fair order here is that the prosecution should pay the defence costs in relation to the charges which have not been proceeded with from the beginning of July. Authorities AG-v-Gouveia

[2000] JLR 324 . Page Last Updated: 13 Dec 2016 BAILII: Copyright Policy | Disclaimers | Privacy Policy | Feedback | Donate to BAILII

Source & reproduction note

Judgment wording, source notices and original paragraph numbers are retained. Esheria supplies the layout and this PDF's page numbers; these are not the source pagination. This is a research copy, not an official or certified court document. Check quotations, citations and publication restrictions against the original source before relying on it.

ORIGINAL SOURCE <https://www.bailii.org/je/cases/UR/2016/>

CASE PAGE <https://chat.esheria.ai/case-law/jersey/ag-v-moon-2016-jrc-214a-18-november-2016>

Prepared on 26 October 2026 · Esheria