

JERSEY / JUDGMENT

AG -v- O'Shea [2005] JRC 087 (01 July 2005)

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JUDGMENT

THE DEPUTY BAILIFF: 1. This defendant committed an unwarranted assault on a prison officer. It may only have been one punch, but it was hard enough to fracture the officer's cheek. Even if a remark had been made, as we heard, that was no excuse. 2. It is quite unacceptable for prisoners to assault prison officers, and prison officers are entitled to the Court's protection when they are assaulted. 3. The defendant has also pleaded guilty to two offences of larceny. One is a shop lifting offence, but the other did in our judgment involve an element of bullying and intimidation of a fourteen year old boy. As the background report makes clear this is not the first occasion on which the defendant has targeted youngsters; indeed he was placed on probation by this Court in September last year for a number of offences which included intimidating youngsters. 4. Mr Hopwood has argued that the three months moved for by the Crown in respect of the larceny on Count 2 is too much. We do not agree because of the element of intimidation; we think that it is a perfectly proper sentence. In relation to the offences for which he was placed on probation, we have been given two versions and we proceed on the basis of the version of facts put forward by the defence. 5. In mitigation Mr Hopwood has mentioned the guilty plea which was entered at an early stage and has emphasised the efforts the defendant has made to overcome his drug habit and his conduct generally whilst in prison. We take full account of all that Mr Hopwood has very persuasively put forward on the defendant's behalf, and we hope that he continues in prison with the efforts that he has been making. 6. He is just 21 and therefore the Young Offenders law does not technically apply because he was convicted today, but we have carefully considered whether prison is inevitable and we are quite satisfied that it is because of the nature of the offences and because the defendant has failed to respond to non-custodial sentences. 7. In our judgment the conclusions of the Crown in relation to the offences on this indictment are correct. What we have had to give careful attention to is whether the offences, for which he was placed on probation in September 2004, should be dealt with by way of a consecutive prison sentence? Normally they would be. Where a person is given the opportunity of a probation order and fails to take advantage of it and commits further offences, then the sentences will normally be consecutive. But on this occasion we take note of the fact that the defendant served the equivalent of 6 months' imprisonment whilst on remand for those earlier offences, and yet the Crown's total conclusions were only for 7 months. 8. Secondly, we take account of the efforts the defendant has been making recently in prison and we think those would be encouraged by making the sentence concurrent. Having regard to the totality principle, we think that the Crown's conclusions are

correct in total. 9. The sentence of the Court is as follows, taking the indictment first, Count 1: 2 weeks'; Count 2: 3 months'; Count 3: 12 months'; and in respect of the breach of the Magistrate's Court Probation Order 1 week's imprisonment, all of those to be concurrent except for Count 3, which is consecutive. In relation to the offences which were before this Court in September, on Count 7, 6 months; on Count 8, 7 months and on Count 9, 3 months, all of those concurrent with each other and concurrent with the sentences, making a total of 15 months' imprisonment. 10. Mr O'Shea this is your chance. You have got to decide, as the Attorney General said and as your Advocate has said, whether you are going to carry on with a life of going in and out of prison, or whether you are going to try and change things. You have the ability and talent to change things, we hope you will do so. Authorities Harrison -v- A. G . [2004]JCA046. A. G. -v- Baglin [2003]JRC085. Page Last Updated: 14 Jul 2016 BAILII: Copyright Policy | Disclaimers | Privacy Policy | Feedback | Donate to BAILII

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