

JERSEY / JUDGMENT

AG -v- Oeillet and Hampton

[2014] JRC 142C (14 July 2014)

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JUDGMENT

THE DEPUTY BAILIFF: 1. Mr Oeillet, you are charged with six counts on the First Indictment of obtaining goods by false pretences, to the prejudice of HSBC, in the sum of approximately £4,700 over three days in August 2013. On the seventh count the charge is breaking and entering and larceny from domestic premises of an iPhone, a £50 note, some Aviator sunglasses and £400 in coinage. 2. The Court has looked carefully at your record and unfortunately noted that this is not the first time you have committed offences of that kind and we have noted that you have pleaded guilty and you are entitled to credit for that and as your counsel very properly said that is your principal piece of mitigation. We have noted that you were not particularly cooperative on interview and I remind you what has been said to you in the past that breaking and entering into domestic premises is always treated seriously by this Court. Indeed when you were last before this Court on this type of offence in February 2011 the Bailiff said this to you:- "...you are before the Court for a number of offences of dishonesty... The most serious dishonesty offence is the breaking and entering of a house at night which was occupied by an elderly man living alone. The Court has repeatedly said that burglary of residential houses, particularly at night, is to be treated seriously, not least because of the feelings of fear and insecurity which such offences can cause in those whose lives are disturbed in that way." The Court then expressed the hope that you would take the opportunities afforded to you by your time in prison to tackle the drink and drug problems that you had in order that you might turn your life around. 3. The Crown concludes that 18 months' imprisonment on Counts 1-6 and 2 years 6 months imprisonment, consecutive on Count 7 making a total of 4 years' imprisonment on that First Indictment is the appropriate sentence. And although it has considered carefully the references and the matters which have been raised in the background reports and by your counsel, the Court considers those conclusions are right. You are therefore sentenced on the First Indictment to 18 months' imprisonment on each of the first six counts to run concurrently and 2 years 6 months on Count 7 to run consecutively. 4. We then have to look at first count on the Second Indictment of affray. The agreed factual basis which has been put before us for that purpose is this that you had gone into Hampton's back garden and had issued threats, in other words there was provocation; that you moved to the front of the house, that Hampton came out and felt that he had to defend himself, that he went beyond lawful self-defence and so he was guilty of the offence of affray as

well. There was an argument with the brandishing of hammers and it was after that took place that Hampton went off to collect his machete. The evidence put before us in the shape of the witness statements provided to the police describes both you and Hampton as being very aggressive, looking extremely angry, brandishing the weapons at each other and the witness said she felt very nervous, concerned for her wellbeing and therefore locked her cars doors as she approached the two men in her car. A taxi driver similarly said that he was frightened by what was taking place when he was asked for a lift, we think by you. 5. The offence of affray is a serious offence, not always just for the violence which it involves, but for the fact that it puts members of the public at fear and 18 months' imprisonment is the right sentence in our view on this particular charge. It is a completely different offence from the other ones and therefore it also calls for a consecutive sentence and one of the reasons we have been such a long time considering the sentence is that we have been giving careful thought as to whether the total that is therefore involved, of 5 years and 6 months' imprisonment, is too high and whether it should be reduced on the grounds of totality. After much consideration we think it should not and accordingly you are sentenced to 18 months' imprisonment on Count 1 of the Second Indictment which runs consecutively to the sentences on the First Indictment, making a total of 5 years 6 months' imprisonment. 6. Your counsel says that you are shocked by the conclusions. In the light of what was said by the Court on the last occasions we really hope that you take that shock to heart and as the Bailiff said on the last occasion the future will look very bleak if you do not do so. Nobody else can tackle this except you and so you are sentenced accordingly. 7. Mr Hampton, I have already described the agreed factual basis of the affray for which you are to be sentenced as well and as I have already explained to your co-accused that the offence of affray is serious because of the fear which is generated in members of the public. The Court's view is that 18 months' imprisonment is right in connection with you as well. We have considered whether or not the provocation that you were subjected to from Mr Oeillet makes a difference and that we should distinguish between you whether or not Dr Harrison's report makes a difference both of those would perhaps suggest that there should be a different or a reduced sentence for you but on the other hand the machete the Court has seen is a very serious, offensive weapon and it is clearly not an ornamental weapon, it is a serious weapon and we are not surprised that members of the public were so frightened by what they saw and in those circumstances you are sentenced to 18 months' imprisonment on Count 1 of the Second Indictment. 8. You are also here to be sentenced for possession of Ethylphenidate which is a category B drug. It was a personal amount, 644 milligrams of white powder in your shoe, and two other small packets found in your premises and the Crown's conclusions are considered to be correct and you are sentenced to 1 month's imprisonment consecutive in relation to the possession of those drugs. 9. In your case the Court has spent a considerable amount of time considering Dr Harrison's report. It is good that you now have a firm diagnosis which can lead to medication being prescribed for you in the future. You will have the opportunity of having that medication of course in the prison and you should take advantage of all the medical facilities which are available to you in the prison; it does not have the impact on your sentence for the reasons that we have given but the Court very much hopes that you will take advantage of the medical facilities and hopefully the result will be that you will be able to control these sorts of problems in the future and not react as you have on this occasion.

10. You are sentenced to a total of 19 months' imprisonment. 11. We order the forfeiture and destruction of the machete and the hammers. 12. We order the forfeiture and destruction of the drugs. Authorities AG v Da Silva

[1997] JLR N 14a. AG v Y

[2011] JRC 032B . Whelan on Aspects of Sentencing in the Superior Court of Jersey 3rd Edition.
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