JERSEY / JUDGMENT

AG -v- Phillips [2009] JRC 193 (09 October 2009)

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JUDGMENT

THE commissioner: 1. This defendant has pleaded guilty to a number of offences resulting from binge drinking on a night in June. The victim of the offences was his sister with whom he had been drinking during the evening until they had an argument and separated. It appears to us, although it is not a matter to which the Crown has expressly referred, that there was considerable provocation from the defendant's sister. First she insulted one of his friends which led to the argument to which we have referred. Secondly, she caused malicious damage to his property in his bedroom. None of that, of course, excuses the retaliation which followed but it does set it in its proper context. There is no suggestion that the defendant intended to use the hammer which he took with him to his sister's flat other than to cause damage to her property. In short this was a drunken over-reaction to the slights which he had received. Nonetheless there is little doubt that the defendant's actions put the victim in fear and he must be punished for that. 2. Defence counsel submitted to us that the Crown's conclusions were disproportionate to the offences committed. We have to say that we have approached this matter in a very different way from that of the Crown. This was not a burglary in its accepted sense. It was, as we have said, a wholly excessive over-reaction in the context of a family dispute and the fact that the events took place in his sister's flat rather than in the home seems to us not very material. It follows that we agree with the Defence that the conclusions are indeed excessive. 3. Nonetheless the defendant caused terror to his sister by appearing in her flat in the middle of the night armed with a claw hammer. He used that claw hammer to smash property belonging to her and he furthermore assaulted another man who was an entirely innocent bystander. In addition to all that he refused to obey an order of a police officer to stop and he drove past her in a state of drunkenness when he clearly constituted a considerable danger to the public. This combination of circumstances makes it impossible for us to do anything but impose a custodial sentence. 4. We have taken into account the defendant's age, his remorse and the letters which we have received. We have also taken into account the defendant's good work record. All these things have enabled us to reduce very considerably the Crown's conclusions. 5. On Count 1 we sentence you to 2 months' imprisonment, on Count 2; 8 months' imprisonment, on Count 3; 8 months' imprisonment, on Count 4; 6 months' imprisonment, on Count 5; 1 month's imprisonment, all those sentences to run concurrently and on Count 7 we sentence you to 4 months' imprisonment, that sentence to be consecutive, making a total of 12 months' imprisonment. We disqualify you from holding a driving licence for all offences which carry disqualification, for a period of 2 years and we also order you to pay compensation to your sister in the sum of £585. Authorities Whelan on Aspects of Sentencing in the Superior Court of Jersey. AG-v-Moreira

[2003] JRC 083A . AG-v-Aubin

[2007] JRC 119. AG-v-Barbet 1985/100. Page Last Updated: 29 Jul 2016 BAILII: Copyright Policy | Disclaimers | Privacy Policy | Feedback | Donate to BAILII

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