

JERSEY / JUDGMENT

AG v Porter [2024] JRC 112 (14 May 2024)

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JUDGMENT

THE DEPUTY BAILIFF: 1. Ryan Martin Porter, you are 41 years old and have no previous convictions. You were convicted by the Jurats following a two day trial of two offences namely grave and criminal assault and possession of an offensive weapon, namely at bat. 2. The offences took place on 22 August 2022. The background was that although your victim that night, Mr X was a stranger to you, you knew his partner, Ms C and her son, an 8-year-old boy who we will call "the Child" in these remarks so as to protect his identity. 3. The 22 August 2022 was a Saturday. That day, Mr X arrived home in the evening to find that the Child was still up and that his Mother, Ms C, was intoxicated by alcohol. This led to an argument between the two adults and Ms C left the flat which she at that time shared with Mr X, leaving Mr X in sole adult charge of the Child and also a baby he shared with Ms C. 4. Mr X then made a meal for himself and offered the Child some food. The Child had already eaten and went into his bedroom. Mr X sat on the sofa in the lounge and began to eat his dinner in front of the television. 5. In the meantime, Ms C made her way to a nearby flat where you lived with your wife and children. It is plain from the evidence that you had a close relationship with the Child and that you both got on well with each other. Ms C deliberately lied to you and told you that Mr X was physically attacking the Child in her flat. Your response was not to challenge Ms C's account or seek further information from her but to immediately take the law into your own hands by seizing a wooden bat and leaving your flat for the flat occupied by Mr X and the Child. 6. The fact that you were in possession of the bat in a public place and prepared to use it in a violent confrontation gave rise to your conviction on Count 2 on the indictment. 7. When you entered the flat occupied by Mr X and the Child it was largely in darkness. You let yourself in as the front door was unlocked. You moved along the hallway and entered the sitting room where Mr X was sitting alone on the sofa watching television whilst eating his dinner. Without any warning at all, you attacked Mr X with the bat when he was offering you no threat of any nature at all and in circumstances where the flat was quiet and there was no evidence whatsoever of the Child or indeed anyone else being or having been under attack. You hit Mr X on the back of the head and he had no idea who was assaulting him or why. 8. Indeed, in Mr X's account at trial he said that he was sitting down, eating with a knife and fork, when he heard the door open. He assumed it was his then partner Ms C. Shortly thereafter, whilst seated, he was struck on the back of the head three or four times. The blows were in quick succession. He stood up in order to defend himself, resulting in him sending his plate and dinner flying to the floor. As it was dark, he did not have a clear view of you but he went

into the hallway and tried to seize the bat from you. There was a struggle. Mr X was already injured by this stage and could recall the blood dripping from the wound on his head during the struggle. Mr X was worried for the safety of the Child and shouted that he should leave the flat. 9. Mr X managed to retreat into the sitting room and shut the door knowing that you still had the bat. He held the door closed for 5 to 10 seconds and then opened it to find that you had gone. Mr X checked that his baby was still in her cot - she was. The Child had now left the flat and in fact had been carried by you to your own flat. 10. The police received a 999 call from a nearby resident and when the police arrived they saw that Mr X was bleeding from a head injury with bruising to his right eye and a lump on the back of his head where you had hit him. 11. Whilst the police were there, Ms C returned to her flat and did so, perhaps extraordinarily accompanied by you. 12. You lied to the police saying that you did not know what had happened. Mr X was taken to hospital to have his injuries assessed and treated. He suffered for a period from reduced movement to his neck consistent with a sudden and unexpected blow to his head, from bruising and abrasions and we have read his statement which set out the effects the assault had upon him including at work. 13. A nearby resident shortly thereafter audio and video recorded a conversation between you and Ms C, not long after the assault occurred and just moments before the police arrived. They recorded you saying to Ms C " If you come up to me and tell me he's hitting your son, I'm gonna go there and fucking attack him, it's as simple as that..." . 14. Well that was the truth of what had happened, but unfortunately you were not prepared to tell the Jurats the truth when you gave evidence and you advanced a false account at trial. 15. When you were arrested after the incident you denied having a bat. In fact you had hidden the bat with your bloodstained clothes in a cupboard outside your flat. Those items were recovered by the police with the help of your wife. In police interview after arrest you made no comment. 16. Subsequently DNA evidence connected you with the assault, as Mr X's blood was on your bat, your t-shirt and even on your trainers. 17. When this evidence was put to you in a second interview in June 2023 you again made no comment. 18. At trial you admitted letting yourself into Mr X's flat but denied hitting him on the back of the head. You claimed that Mr X saw you, stood up, came towards you armed with his knife and fork and you only hit him with the bat because you were worried you might be stabbed by the knife or the fork. You claimed that you only carried the bat in your trousers for the purpose of self-defence and that you only hit Mr X in self-defence. You could not explain, on your account, the fact that he was injured on the back of his head. 19. You accepted that you told Mr X " Pick on someone your own size, you child-beating scumbag" in the course of the scuffle before realising after you assaulted him, that he was no such thing. 20. The Jurats rejected your story that you were acting in self-defence and/or defence of another and found that you had no reasonable excuse for carrying the bat as an offensive weapon. 21. You are a family man and you support your wife and the four children you have together. We have read the Pre-Sentence Report with care and the material submitted by those who know you well and speak of you as a devoted and caring family man. 22. The Crown describes this as a surprise attack on a defenceless man carried out in cold blood in the sense that it was clear to you when you attacked Mr X that neither you - still less the Child - were under attack or any danger of attack. Using a weapon like this to cause injuries to another person's head is a dangerous and reckless act, and, as the Probation Officer observes the injuries could have

been far worse. 23. So far as Mr X is concerned, this was an unprovoked attack on him and although it is unfortunate that you were misled by Ms C, it was your decision to take what she said at face value and when you entered the flat it should have been clear to you that what you had been told was false. This was in essence a vigilante attack which is intolerable and unacceptable in an age when the police are readily available. The Court will not tolerate such violence in circumstances where it is wholly unnecessary for a Defendant to take the law into his own hands. 24. In the circumstances, this offending is so serious that the custody threshold is plainly passed and both Jurats were agreed on this issue. One Jurat felt that a Community Service Order would be appropriate punishment in this case as a direct alternative to custody which of course Community Service is

- it is a direct alternative to custody. The other Jurat felt that this offence was so serious that only a custodial sentence could be justified and I have agreed with the second Jurat as they were divided on sentence. But we have had to consider whether or not it is possible to suspend the sentence of imprisonment, one of 2 years, that we regard as appropriate in this case and because of:- (i) your previous good character and the fact this was wholly out of character, (ii) the support you give to your wife and four children, (iii) the evidence we have read about from those who know you well, and (iv) the very unusual background of this offence we have just been persuaded that the prison sentence we are about to impose can be suspended for the maximum period permitted by law. 25. The sentences that we impose are as follows. On Count 1, 2 years imprisonment, suspended for 2 years. Count 2, 15 months' imprisonment, suspended for 2 years, concurrent, making a total of 2 years imprisonment, suspended for 2 years. This means that if during the period of suspension of 2 years you commit any offence punishable by way of imprisonment, in addition to any penalty for that offence you will also go to prison for 2 years. 26. In addition you will pay compensation to your victim in the sum of £1500 payable at £150 per month with the first payment due on 31 May. The sentence in default of any one payment is 2 months' imprisonment so it is essential that you make those payments. 27. We make a destruction order in relation to the bat.
- Authorities AG v Duffy

[2017] JRC 131 AG v S

[2015] JRC 232 AG v Correia

[2014] JRC 237A AG v Turner

[2012] JRC 147 AG v Hinds

[2011] JRC 163 AG v Marett and Kilgour

[2008] JLR Note 2 Harrison v AG

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Prepared on 23 October 2026 · Esheria