

JERSEY / JUDGMENT

AG -v- Povey [2010] JRC 156 (27 August 2010)

[2010] JRC 156

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JUDGMENT

THE DEPUTY BAILIFF: 1. Last December you were before this Court for the offence of common assault and the Court at that time said:- "The Court treats violence at night on the streets of St Helier very seriously. There is no doubt at all that the normal sentence would be a custodial one." Instead on that occasion, the Court thought it was appropriate to give you the opportunity of performing that sentence in the community by substituting a community service order. You had the opportunity therefore of retaining your liberty and serving your sentence in that way. When you came back to Court on the last occasion for breach of the order, there was very little doubt in the Court's mind that the breach was because you were not taking the order that had been made seriously and the warning was given to you:- "I want to give you this warning. If there is a next time, if there is a further breach then almost certainly you will be remanded in custody because the Court takes the view that although what the Court does on the next occasion, if you do not perform this, will be a matter for that Court, we think a custodial sentence is inevitable and what is more, as far as we are concerned we think it is unlikely that that Court will give any credit for the community service which you have performed so far". So you had the clearest possible warning only six weeks ago as to the Court's approach to breaches of community service

orders.

It is entirely right to say that it appears to the Court that these breaches which have been committed were relatively minor, but nonetheless the Court considers it appropriate in the light of the history so far and to the warnings that have been given, that a custodial sentence must be imposed. 2. We have read carefully the reference which you have had from Kalmac Limited, which is a good reference and a good offer. We very much hope that will still be available when you come out of prison, and we have also had regard to all the matters which your counsel has raised on your behalf. But at the end of the day the Court's orders are to be honoured and respected and when you are given the opportunity of community service then if you do not take it then it is your look out. 3. Although we said in July that it would be unlikely that we would give credit for the time served on community service so far we have decided, in the light of the relatively minor breaches of the community service order, that we will give you some credit, therefore we are not going to impose any additional sentence for the breach. We are going to

remove the existing sentence of community service order and replace it with a sentence of 6 weeks' imprisonment in respect of the common assault for which you came up to be sentenced last December. 4. That is the sentence on that offence, 6 weeks' imprisonment. Authorities AG-v-Evans and Povey

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Prepared on 23 October 2026 · Esheria