

JERSEY / JUDGMENT

AG -v- Rodriques [2007]

JRC 067 (16 March 2007)

[2007] JRC 067

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JUDGMENT

THE COMMISSIONER: 1. The Defendant, who is 41 and of previous good character, has pleaded guilty to 6 Counts of breaking and entry and larceny, 2 Counts of attempted breaking entry and with intent and 1 Count of carrying an offensive weapon. The offences all involved commercial premises and were carried out over a period of just over a month. The offences involved relatively small sums of cash and alcohol totalling some £1,178. 2. The Defendant has a chronic history of heavy drinking, culminating in alcohol dependence, and committed the offences to fund his alcohol addiction and to help pay off loans. The Crown has referred us to the guideline case of AG v Gaffney

[1995] JRC 101, in which the Court stated that 18 months was the appropriate guideline sentence for breaking and entering into commercial premises. This is a focal point, rather than a starting point, which can move up as well as down. An aggravating feature is that the offence is one of a series of similar offences carried out by the Defendant. The Defendant has pleaded guilty, although it is the case that he initially denied any wrong doing, and only admitted the offences as they were put to him over the course of the Police investigation. 3. We have taken into account the reports presented to us and all of the mitigation put forward on the Defendant's behalf. In particular, we have taken account of his clean record, the short period of the offences, his excellent employment record and the testimonial from Meleches Limited, and we accept that these offences took place at a very low point in his life and were out of character. 4. Offences of this kind have to be met by custodial sentences but we do feel able to reduce the conclusions as follows: on Counts 1, 2, 3, 6 and 9 you will be sentenced to 15 months imprisonment; on Counts 5 and 8 you will be sentenced to 9 months imprisonment, concurrent; on Count 10 you will be sentenced to 3 months imprisonment, concurrent. This makes a total sentence of imprisonment of 15 months. 5. We now move on to the issue of deportation. We have had regard to the two stage test established in R v Nazari

[1980] 3 All ER 880, the first of which is whether the accused's presence in Jersey is to the Island's detriment. The Defendant was born and brought up in Madeira where his parents and family live. He married in 1989 and came to Jersey with his wife in 1996. His wife returned

to Madeira in 1999 and lives there with her three children in what continues to be a close and happy marriage. His residence in Jersey since that time has not be continuous. The Defendant has expressed the intention of returning to Madeira as soon as possible after his release. He has been described in the Alcohol and Drug Services Report as an alcoholic who offends in spite of his alcoholism and they did not have any treatment recommendations for him. Taking into account all of the circumstances the Court is satisfied that the Defendant's presence in Jersey is to the Island's detriment. The second test is to consider the effect which a deportation order would have upon innocent persons who are not before the Court. In this case the Defendant's wife and children live in Madeira, where the Defendant wishes to return, and we are quite satisfied therefore that there are no innocent persons who will be affected by a deportation. We therefore recommend to the Lieutenant Governor the Defendant's deportation at the end of his sentence. Authorities AG v Gaffney

[1995] JRC 101 . R v Nazari [1980] 3 All ER 880. Page Last Updated: 26 Jun 2015 BAILII: Copyright Policy | Disclaimers | Privacy Policy | Feedback | Donate to BAILII

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