

JERSEY / JUDGMENT

AG v RR [2023] JRC 201 (26 October 2023)

[2023] JRC 201

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JUDGMENT

THE BAILIFF: 1. On 22 August 2023, this Court sat to consider the sentence of RR ("the Defendant") aged 15 years for five counts including one of common assault and four of grave and criminal assault committed between 25 January 2023 and 10 April 2023 (AG v RR

[2023] JRC 155). 2. The Crown, in moving conclusions of youth detention, recommended the following conclusions: (i) Count 1 - assault on Victim A: 4 months youth detention. (ii) Count 2 - grave and criminal assault on Victim B: 9 months youth detention. (iii) Count 3 - grave and criminal assault on Victim C: 9 months youth detention. (iv) Count 4 - grave and criminal assault on Victim A: 18 months youth detention. (v) Count 5 - grave and criminal assault on Victim D: 18 months youth detention. All periods concurrent making a total of 18 months youth detention. 3. The offending in respect of which the Defendant was to be sentenced also placed the Defendant in breach of a probation order and in the light of the conclusions moved for by the Crown, the Crown sought that the order be revoked with no separate penalty applied. 4. After hearing the submissions of the Crown and Defence counsel, and considering the information before the Court as a whole, we sentenced the Defendant as follows: (i) Count 1

- assault on Victim A: 4 months youth detention. (ii) Count 2 - grave and criminal assault on Victim B: 9 months youth detention. (iii) Count 3 - grave and criminal assault on Victim C: 9 months youth detention. (iv) Count 4 - grave and criminal assault on Victim A: 15 months youth detention. (v) Count 5 - grave and criminal assault on Victim D: 15 months youth detention. All concurrent making a total of 15 months youth detention. We revoked the probation order and as requested by the Crown, imposed a restraining order for each of the victims who requested one. 5. We do not need to set out the full details of the offending which have been referred to fully by the Crown. They may be summarised very briefly as follows. 6. Count 1 was a common assault on Victim A which took place on 25 January 2023. The victim, who was 15 years old, was approached by the Defendant who looked angry. The Defendant punched Victim A on more than one occasion, splitting his lip. Victim A did not retaliate. Subsequently, the Defendant claimed that he had heard that Victim A had supplied the Defendant's younger sister with alcohol and he was seeking retribution. 7. With regard to Count 2, the grave and criminal assault on Victim B, on 28 January 2023 the victim who was 17 years of age was at the Liberation bus station when the Defendant walked up to him and

asked him to identify himself. The Defendant then dragged Victim B in the Defendant's own words " out of the CCTV " and then demanded to know why Victim B had supposedly assaulted the Defendant's younger brother. Victim B denied this. The Defendant then punched Victim B to the face causing him to fall to the ground and his nose to bleed and the Defendant kicked him to the shoulder. It was clear that the Defendant had attacked Victim B under the mistaken belief that he was a different youth who the Defendant thought had assaulted the Defendant's younger brother. When he was told of the mistake, he apologised to Victim B and left the area. 8. With regard to Count 3, grave and criminal assault on Victim C, on 26 March 2023 Victim C who was 14 years of age was outside McDonalds when he was approached by the Defendant with three others. He was taken to the underground entrance of a property on Wesley Street and the Defendant began to hit him in the face and did so some 20 or 30 times. Victim C put his hands up to protect himself and the Defendant attempted to kick him in the ribs a number of times. It was thought by the Defendant that Victim B had assaulted the Defendant's sister. 9. With regard to Count 4, the grave and criminal assault on Victim A, on 10 April 2023 Victim A was walking with his friend at Parade Park when two girls told him to " go to the stairs ". He then saw the Defendant who was with three friends and he was punched which caused him to fall to the ground. He got up and ran from the group and the Defendant pursued him, grabbing the back of his hood, throwing him against the wall where he hit his head and then fell to the ground. He was kicked by the Defendant in the back of the head and pretended to be unconscious. The Defendant continued to kick him and he was kicked and stamped to his head, the side of his face, his torso, arms and legs. Whilst kicking, the Defendant told his friends to " video this ". The victim then stumbled home and his mother phoned the police. 10. We have seen the video footage of this assault and indeed of the earlier assault on Victim B, which was videoed. It is fair to describe the grave and criminal assault against Victim A as prolonged, vicious and frenzied. 11. There was no evidence to support the Defendant's allegations against the victims mentioned above. 12. With regard to Count 5, the grave and criminal assault on 10 April 2023 on Victim D who was 78 years of age and who was walking down Bath Street. The Defendant was with his sister and the Defendant's sister knocked Victim D's hat from his head and Victim D swore at her. The Defendant then confronted him and alleges that Victim D punched him to the jaw although it caused no injury. The Defendant then punched Victim D, knocking him unconscious and he fell forward onto his face and the Defendant and his friends ran from the area. It was accepted by the Defence that the Defendant's reaction to the supposed hit by Victim D was an over-reaction and the level of violence was not proportionate and therefore no question of self-defence arises. 13. We have seen photographs of the injuries of the victims and, as we have mentioned, we have seen video footage of two of the incidents. It is fair to say that, as we have indicated above, the second piece of video footage was shocking and disturbing. 14. As we said in the few remarks that we made when handing down sentence, the Defendant has taken part in an appalling and unprovoked spate of violence on the streets of St Helier. 15. It was said to us in mitigation as indeed we have referred to above that on each occasion the Defendant was either defending or seeking retribution for assaults or other damage done to members of his

family, his siblings, about whom he feels enormously protective. We were told that the Defendant's younger brother had been transferred for therapeutic assistance to a unit in the United Kingdom and this had been deeply upsetting for the Defendant. 16. We have of course seen and considered carefully the background reports and we have noted that there are some signs that this Defendant wishes to change the way that he behaves and to seek the appropriate help and support. We are alive to his possible change of direction and, for example, we note that with regard to Victim D, the Defendant immediately thereafter phoned the ambulance so that Victim D would receive help and attention. We also note the letter of remorse and his hope of finding a better way of dealing with life's challenges and disputes. We note that the Defendant has a number of previous convictions including those for grave and criminal assault and it seems to us that he has a history of using violence to solve his problems or any conflicts in his life. 17. Naturally, we are bound by the provisions of the Criminal Justice (Young Offenders) (Jersey) Law which at Article 5(3) provides: "Where - (a) a child or young person is convicted of any offence that is punishable, in the case of a person aged 21 years or over, with imprisonment for 14 years or more; (b) the offence is not an offence for which the sentence is fixed by law; and (c) the court is of the opinion that none of the other methods in which the case may legally be dealt with is suitable, the court may sentence the offender to be detained for such period, not exceeding the maximum term of imprisonment for which the offence is punishable in the case of a person aged 21 years or over, as may be specified in the sentence." 18. We have considered the matter anxiously but in the light of the nature and frequency of these attacks we think that the provisions of Article 5(3) apply and that a custodial sentence cannot be avoided in this case. 19. We note the contents of the pre-sentence reports which suggest that the Defendant felt a calm sense of release after the assaults had been perpetrated and that the assaults were a justified retribution. He is assessed as being at a very high risk of reconviction. The reports before us suggest that a community based disposal would carry with it a high risk of failure and, as we have already indicated, the current offending places the Defendant in breach of a probation order which was drugs related. 20. He has, of course, pleaded guilty to all counts and he deserves due credit for that and we take matters of totality into account. We noted that there was no opposition to the restraining orders sought and we therefore imposed them in the terms requested. 21. We are also cognisant of the fact that youth detention would not carry with it the possibility of remission that a sentence of imprisonment would but in the round we do not fault the Crown for the suggested disposal of 18 months youth detention. 22. We did, however, feel that we could pay regard to the positive things that we have heard and the desire on this Defendant's part to move to a more pro-social way of being and to seek the help from the Probation Service. Indeed, it was confirmed that if the Defendant sought the help of the Probation Service, it would be provided and we urged that that should be the case. 23. Taking all of the circumstances in the round, we felt able to reduce the Crown's conclusions somewhat and impose the sentences that we have set out in paragraph 4 above.

Authorities AG v RR

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