

JERSEY / JUDGMENT

AG -v- Silva [2015] JRC 153 (06 July 2015)

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JUDGMENT

THE commissioner: 1. You assaulted the victim in this case at 2:30 in the morning in St Helier by punching him twice to the head, causing him to fall to the ground, and you then kicked him once to the head, causing his head to come forward as we have heard. Although you say he must have provoked you, there is no evidence to support that and you cannot recall. It is true to say the victim has made no complaint; he left the scene and was not interviewed. There is therefore no evidence of any injuries; nevertheless the incident was witnessed by the police and captured on CCTV. 2. Advocate Fogarty has urged us to consider not sending you to prison. She has pointed out that you pleaded guilty at an early stage, which is to your credit; she has explained how your previous conviction in Madeira was a long time ago when you were very young; she has pointed also to your very good work record in Jersey, and that is supported by the many references we have received from your employers and by the fact that they have taken the trouble to come to Court to support you. So it is clear that you are well regarded. 3. That makes it all the more sad that you have put all of that at risk by this unprovoked assault because the Court's policy is very clear. Those who commit violent assaults on the streets of St Helier will be sent to prison unless there are exceptional circumstances. We have listened very carefully to everything your advocate has said and to what your employers and friends have said in their references but we cannot find that there are exceptional circumstances in this case. Furthermore, for an assault which involves kicking to the head, which can so easily cause life-threatening injuries, we think that the Crown's conclusions are correct. 4. As to deportation, we are quite satisfied that the first limb of the test is met and because of this assault, your continued presence in the Island would be detrimental to the public good. We have considered against that your right under Article 8 of the Convention to your family life. You were brought up in Madeira; you have spent three periods in Jersey, a few months in 1999, 2 years from 2009 to 2011 and then the period since January 2015 to now. But your parents are in Madeira and your daughter is also in Madeira. Your wife lives in Brazil and you have no family in Jersey. In all the circumstances we see no reason not to recommend deportation. 5. The sentence of the Court is of 18 months' imprisonment. We also make a recommendation for deportation at the end of your sentence. Authorities Harrison-v-AG

[2004] JLR 111 . Whelan on Aspects of Sentencing in the Superior Court of Jersey. AG-v-Anderson

[2013] JRC 230 . AG-v- Huet

[2014] JRC 130A . AG-v- Mildren

[2014] JRC 141 . Licensed Premises (Exclusion of Certain Persons)(Jersey) Law 1998. AG v Passman and Passman

[2007] JRC 230. Camacho v AG

[2007] JLR 462 . Page Last Updated: 27 Sep 2016 BAILII: Copyright Policy | Disclaimers | Privacy Policy | Feedback | Donate to BAILII

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