

JERSEY / JUDGMENT

AG -v- Sofaru [2012] JRC 128 (29 June 2012)

[2012] JRC 128

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JUDGMENT

THE BAILIFF: 1. The Court's policy in cases such as this is clear. If you kick a man to the face when he is lying on the ground, you will almost certainly go to prison. The question for us is whether this is one of those exceptional cases where we can impose a non-custodial sentence. What is certainly true is that there was an enormous amount of provocation. After a verbal argument you and your friend were attacked by a group which included the victim. You were head butted by one of the group. You were then chased by the group and we accept that you found yourself outnumbered. We also accept that you did not start the violence in the second part of the incident. But at some stage the victim, who was extremely drunk, ended up on the ground and at that stage you kicked him, and that cannot have been in self- defence. He suffered a broken nose and a possible cracked rib as well as bruising to his face. But the Crown has accepted in this case that what was involved here was a loss of control mixed with fear on your part. 2. As well as the mitigation from the facts of the offence, you have strong personal mitigation. You pleaded guilty very promptly and were cooperative with the police. You have no previous convictions in Romania, here, or anywhere else. You have had an exemplary work record since you came to Jersey and we have read the references. You are assessed at low risk of reoffending; the probation report says that you are genuinely remorseful and that what happened this night was wholly out of character. This is one of those cases where others are fortunate not also to be before the Court. 3. On the very unusual facts of this case, and given the very powerful mitigation, both personal and in relation to the facts of the case in relation to the extreme provocation, we agree that we do not have to send you to prison. 4. The sentence of the Court is that you undertake community service for 180 hours, which is the equivalent of the 12 month imprisonment sentence suggested by the Crown. And you must understand that if you do not undertake this work, or if you reoffend, then you will come back here and you will almost certainly at that stage have to go to prison. But if you undertake the work conscientiously when told to do so and you do not reoffend, that will be your only punishment. That is the sentence of the Court. 5. There is an application for compensation but we think that it is not appropriate to order it in this case; if the victim wishes to pursue the matter he can do so civilly. Authorities Whelan - Aspects of Sentencing in the Superior Courts of Jersey (3 rd edition) (extract). AG-v-Mendonca and Moreira

[2006] JRC 066 . AG-v-Le Mains (02.10.1996). Page Last Updated: 13 Sep 2016 BAILII: Copyright Policy | Disclaimers | Privacy Policy | Feedback | Donate to BAILII

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