

JERSEY / JUDGMENT

AG v V [2008] JRC 005 (11 January 2008)

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JUDGMENT

THE commissioner: 1. V has pleaded guilty to two counts of causing harm to a child under the age of 16, contrary to Article 35(1)(a) of the Children (Jersey) Law 2002 . The children, who of course cannot be identified, are the children of Ms. G from her earlier marriage, and they were aged 13 and 10 at the time of V's arrest. The children are to be named Miss A and Master C. V and G have had a relationship for some 6 years and during this time three boys were born, aged 16½ months, 3 and 5 at the time of the arrest. Another girl, baby C was born in December 2002, but in April 2003 she died, aged only 4 months, of a congenital heart disorder. 2. In the household there were 5 children. The children all refer to V as "Dad". In February 2007 a teacher at Master C's school noted behavioural problems and bruising. A female police officer and a child care officer attended at the school and further bruising was noted on Master C's right thigh. It was alleged that he had been kicked by his father wearing steel capped boots. The child officer spoke to Miss A. She told the child care officer of kicking by V with steel capped boots, she had been hit that very morning, she was worried about what her father would do to Master C if he found out that this story had been told. Master C and Miss A were only allowed to play outside the house on Tuesday and Thursday because on those nights V played pool in the Robin Hood pub. Master C and Miss A are obviously close and it was agreed that all 5 children were to be housed overnight at their maternal grandmother's home. 3. A medical examination of Miss A and Master C showed 9 bruises on Master C and 4 bruises and 1 burn mark, apparently caused by holding a hot spoon against her skin, on the wrist of Miss A. Video interviews, which we haven't seen, were conducted with Master C and Miss A. They were remarkably similar it appears. Miss A said that the violence began when the family moved to their new address in May 2002. 4. The details of the violence shown, only to these two children, have been carefully detailed to us by Crown Advocate Sharpe. The children were threatened with further violence if they told what had happened, and if V lost his money at the bookies he would come home very angry. The mother was either asleep, out or using the vacuum cleaner when the violence occurred and said that when she was in the house she didn't hear the children's screams although of course these were heard by neighbours. The two children had to look after their half siblings after school and often long into the night. On one occasion, after baby C had died, she found V pushing Master C into a chest of drawers. After a further incident the police were called and V took treatment for his temper and his jealousy. 5. The neighbours also gave evidence, although they didn't witness any violence, they had heard persistent shouting and screaming from the house for a number of years, and this has apparently

stopped since the defendant was removed from the house by his conditions of bail. One neighbour was so concerned that she had not seen Miss A outside the house that she contacted the children's service. 6. V denied the charges initially, and seems unable to understand the harm that he has done. Indeed as Miss A said at one point that baby C, her sister who died "is better where she is because she's not getting put through what I am now." Although the defendant was charged on the nd March, 2007, it was only on the 30 th November that he pleaded guilty, but there has been what we would describe as an excessive delay in preparing the indictment. The defendant has no previous convictions and he has had no contact with any of his children for 10 months. He is at medium risk of re-offending and he lives with his mother but is still unemployed. We of course carefully read the social enquiry report and the psychological report and the letter that he has sent us. Although Article 35 of the Children (Jersey) Law 2002 states that:- "If any person who has responsibility for a child under the age of 16 intentionally or recklessly - (a) causes any harm to that child; ... the person shall be guilty of an offence and liable to imprisonment for a term of 10 years and to a fine." 7. In the Court of Appeal in Taylor v AG

[1998] JRC 128, the appeal against sentence of imprisonment was dismissed, but the Bailiff, on behalf of the Superior Number, said:- "It is the case that in sentences, or in cases of this kind, there is perhaps no right answer." 8. We have been guided by the learned Crown Advocate on the Law, we have had particular regard to the AG v Mourant

[1994] JRC 204 , where the then Deputy Bailiff said:- "It is true that there are degrees of gravity which range from the sadistic or premeditated perpetration of violence upon children to the isolated incident resulting from a sudden loss of temper." 9. We have had, also, very careful regard to the principles set out in Durkin

[1989] 11 Criminal Appeal Report Sentencing 313:- 10. The defendant in this case pleaded guilty on indictment but nevertheless he inflicted pain on two of his step-children and not in any isolated incident, they were over a period of 18 months in the case of Master C and 5 years in respect of Miss A. We appreciate everything that Advocate Dickinson has said but in view of V's lifestyle, which seems to us to be an extraordinary one lacking as it does any personal motivation. We do note that the harm he has done to these two children may prove to have extremely serious consequences, particularly in light of the fact that he was abused as a child himself. We note the defendant pleaded guilty at the earliest opportunity, has expressed genuine remorse, has no previous convictions of any kind and his offending consisted of a totally inappropriate form of punishment and chastisement rather than the inflicting of gratuitous pain. There were two young children involved and we are going to follow the conclusions of the Crown. 11. You are therefore sentenced to 12 months' imprisonment on each count concurrent. Authorities Children (Jersey) Law 2002. Taylor v AG

[1998] JRC 128. AG v Mourant

[1994] JRC 204 . Durkin [1989] 11 Criminal Appeal Report Sentencing 313. Page Last Updated: 16 Mar 2017 BAILII: [Copyright Policy](#) | [Disclaimers](#) | [Privacy Policy](#) | [Feedback](#) | [Donate to BAILII](#)

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