

JERSEY / JUDGMENT

AG -v- Watts [2005] JRC 171 (09 December 2005)

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JUDGMENT

THE BAILIFF: 1. Watts is to be sentenced for various minor offences of disorderly conduct and for violently resisting police officers in the execution of their duty. The offences relating to disorderly conduct were committed during the currency of a period of suspension of a 6 months' prison sentence imposed on 7 th May 2004. It is conceded by the Crown Advocate that, but for the suspended sentence, the offences on the indictment this morning could all have been dealt with appropriately in the Magistrates' Court. 2. This case gives rise to the consideration of the effects of the relevant statutory provisions governing suspended sentences. As the learned Commissioner rightly said in May 2004 this defendant has been a thorough nuisance for years. He has a deplorable record largely caused by his alcoholism. One might have thought that if a man with a deplorable record commits another offence during the currency of a period of suspension an activation of the suspended sentence would follow fairly automatically. But that is not what the statute says. Article 3 (3) of the Criminal Justice (Suspension of Prison Sentences) (Jersey) Law 2003 states that: "The court shall not make an order under paragraph (2) if it is satisfied that it would be unjust to do so having regard to any circumstances that have arisen since the suspended sentence was passed, including the facts of the further offence". 3. English cases drawn to our attention by counsel for the defendant make it clear that in that jurisdiction, when interpreting similar provisions of the English act, the courts have held, on several occasions, that the fact that a subsequent offence does not warrant a custodial sentence is a strong argument for not activating the suspended sentence. 4. We agree with that interpretation of the statutory provision. Where a subsequent offence is relatively trivial, it would, in general, be unjust and unfair to activate a suspended sentence. We have to consider in this case only counts 1 and 2, which involve a refusal to leave licensed premises and a minor scuffle with a doorman, in the context of that refusal. Those offences are, in our judgment, not such as would ordinarily lead to the imposition of a custodial sentence and in these circumstances we consider that this is not a case to activate the suspended sentence of imprisonment imposed in May 2004. 5. Having said that, the Court has little sympathy for the defendant. Watts, you have a serious drinking problem and while we are pleased to hear from your counsel that you have at last recognised that fact, we hope that that recognition is genuine and that you propose to do something about it. If you do wish to set any kind of appropriate example to your son you will

certainly have to improve on the behaviour which has been taking place in recent years. Offers of assistance from Social Services have been made and it is up to you whether you choose to accept those offers, or not. We are not going to send you to prison for these offences. We hope that you are genuinely expressing a desire to change the way in which you live your life. 6. We have to punish you and we are going to fine you for the offences that you have committed. On Count 1 you will be fined £50 or 1 week's imprisonment. Count 2, £50 or 1 week's imprisonment, concurrent. Count 3, £50 or 1 week's imprisonment, concurrent and Count 5, £250 or 1 months' imprisonment, concurrent, making a total fine of £400 or 1 month's imprisonment in default of payment. Those fines to be paid at the rate of £20 per week. Authorities Criminal Justice (Suspension of Prison Sentences) (Jersey) Law 2003 . Page Last Updated: 15 Oct 2015 BAILII: Copyright Policy | Disclaimers | Privacy Policy | Feedback | Donate to BAILII

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