

JERSEY / JUDGMENT

AG -v- Williamson [2011]

JRC 232 (06 December 2011)

[2011] JRC 232

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JUDGMENT

THE commissioner: 1. The defendant clearly has serious anger management issues and lack of emotional control which have led to violent behaviour exacerbated by the use of alcohol and drugs, notably cannabis and anabolic steroids. At his young age he already has seventeen previous convictions, two for grave and criminal assault. At the age of 20 he was sentenced to 2 years' youth detention for a grave and criminal assault in which the use of a knife had been threatened. That offence put him in breach of a 140 hour Community Service Order for an earlier grave and criminal assault upon a woman. Within four days of the end of his supervision following his release, he has committed an assault on victim A and less than three months later the grave and criminal assault on victim B, for which assaults he is to be sentenced today. 2. The defendant, with others, assaulted victim A as he was walking home in St Helier. Victim A had apparently come up to the defendant and his girlfriend at a nightclub to congratulate them on having a child. The defendant thought he was "being funny". He admitted in interview that the use of steroids was affecting his mood and had led to a bout of paranoia; he has since given up the steroids. The assault on victim B took place in the early hours of the morning at the home of the defendant's girlfriend. The defendant had moved out of this home some six days before. On 16 th July, 2011, in the early hours he had let himself in with a set of keys he had in his possession, surreptitiously and without knocking. His ex-girlfriend and her friend were in the living room talking to victim B. The defendant says that victim B had his hand on his ex-girlfriend's hip and he thought that he was about to kiss her. He proceeded to attack victim B with a baseball bat and then a vodka bottle, and then threatened the use of a knife. He also threatened to kill victim B who genuinely feared for his life. 3. Both Dr Helmsley and Dr Gafoor strongly advise that the defendant's anger management issues be addressed. He is assessed as being at a high risk of reoffending and a high risk of causing harm to the public. Although the knife was not actually used, the Court has made it repeatedly clear, and it does so again, that it takes a very serious view of the use of knives in assaults and will do all it can to ensure that the knife culture does not develop in Jersey. 4. The Crown have referred us to the factors set out in the Court Appeal decision of Harrison-v-AG

- [2004] JLR 111 and we accept its comments in relation to the grave and criminal assault. It moves for a starting point of 7 years' imprisonment for that offence. We are aware of the recommendation in the Court of Appeal decision in Harrison to use starting points, but we had great difficulty in doing so. Unlike drug trafficking cases where some precision and consistency can be arrived at by reference to the quantity of the drugs involved, in cases of assault the variables are infinite. Mr Hopwood agreed that there is no guidance to assist us in arriving at 7 years as an appropriate starting point and we have not been given a range of sentences handed down by the Court in the past to assist us in placing this case within that range. We decline therefore to approach this case by reference to a starting point. 5. The defendant also stands to be sentenced for the production of cannabis found in his ex-girlfriend's home. The potential yield of the plants grown by the defendant is 1,080 grams which is just over 1 kilogram, with a potential value of between £10,800 and £13,500. The defendant asserts that the cannabis was for his personal use, he smokes cannabis or did smoke cannabis daily, but we agree with the Crown that it is inevitable that a proportion would have been supplied, not least in view of the defendant's admission as to sharing cannabis with his ex-girlfriend. 6. The Crown have had regard to the guidelines set out in the case of Campbell-v-AG
- [1995] JLR 136 which stipulate 2-6 years' imprisonment for commercial trafficking in Class B drugs of quantities of between 1 and 10 kilograms, and therefore take a starting point of 2½ years' imprisonment. It is clear from the case of AG-v-Jeffrey
- [1996] JRC 002 that the Court has treated the production of cannabis as the same as importation and that it is appropriate to have regard to the Campbell guidelines. The quantity of cannabis that these plants would have produced brings this case within those guidelines. We agree therefore with the starting point suggested by the Crown and Mr Landick, for the defendant, did not demur from that. 7. Turning to the mitigation, the defendant is still only 22 and he was cooperative with the police over the drugs offences, although it has to be said that he was not cooperative with them over the assaults. He has however pleaded guilty to all the charges for which he stands to be sentenced today. He has taken full responsibility, in particular, for the cannabis production offences and he has shown a responsible and good attitude to his young child in whom he takes a great interest. He has written us a letter of apology which we have read, but we do note that it contains no expression of remorse at all for either of his two victims, showing a lack of empathy, something noted in the reports. And we have of course considered all of those reports. 8. Taking first the grave and criminal assault; this is a serious offence involving the use of multiple weapons and ultimately the threat of a knife. It was carried out in the presence of two women and without any provocation or justification, in our view. It is the defendant's third grave and criminal assault and we have no doubt that, taking into account all of the mitigation, 4 years is the appropriate sentence for this offence. We also agree with the conclusions of the Crown in relation to the common assault and the drugs production and drugs possession. Ordinarily it would be right to impose consecutive sentences for what are unconnected offences. However, when looking at the totality of the sentences that

would apply if imposed consecutively, namely 5 years and 9 months, we have, after very careful consideration, concluded that for a man of 22 years it is too high. We make no criticism of the conclusions of the Crown but for that reason and that reason alone, and exceptionally, we are going to make the drug production sentence concurrent. 9. As to the Exclusion Order, we have taken into account the length of time the defendant will now have to serve in prison and whilst we think that an Exclusion Order is entirely appropriate both to assist the defendant and protect the public, we are going to reduce it to 6 months with effect from his release. 10. Taking the First Indictment, on Count 1 you are sentenced to 6 months' imprisonment, Count 2; 4 years' imprisonment, consecutive. Turning to the Second Indictment, on Count 1 you are sentenced to 15 months' imprisonment, concurrent, and on Count 2; 1 month's imprisonment, concurrent. That makes a total of 4 years and 6 months' imprisonment. 11. In terms of the Exclusion Order we make an order excluding you from premises of the 1 st , 2 nd , 3 rd , 5 th and 7 th category, excluding the Multiplex Cinema, the Jersey Arts Centre, the Jersey Airport, the Ferry Terminal at Elizabeth Harbour and the Opera House, to take place for a period of 6 months from the day on which you are released from prison. 12. Finally we order the forfeiture and destruction of the knife, the baseball bat, the steroids, the cannabis plants and the equipment used for growing them, namely from the master wardrobe, reflective foil, a lamp and a thermometer and from the child's bedroom, a grow tent, a self irrigating water tank, a lamp, an extractor fan and a "Budda Smell Stopper" filter. 13. Mr Williamson, we all feel that you have really serious issues which need to be addressed. I am sure you appreciate that. As a result of those issues your life has really been blighted. Since you were 20 you have served a 2 year sentence; you are now about to go back in for another period of custody which is an enormous amount of time for someone as young as you. We are very pleased that you are going to undertake, and indeed, are undertaking the courses and programmes available to you but you do now obviously realise that you have a responsibility for your young child, and for his sake and his sake alone, you really must address these issues. Authorities Misuse of Drugs (Jersey) Law 1978. Licensed Premises (Exclusion of Certain Persons)(Jersey) Law 1998. Harrison-v-AG

[2004] JLR 111 . AG-v-Williamson

[2009] JRC 248 . Campbell-v-AG

[1995] JLR 136 . AG-v-Jeffrey 1996/002. AG-v-Louis and Others

[2008] JRC 032 . AG-v-Bisson

[2009] JRC 151 . AG-v-Mills

[2009] JRC 235 . AG-v-Hinds

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