

JERSEY / JUDGMENT

AG v Withe [2023] JRC 179 (29 September 2023)

[2023] JRC 179

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JUDGMENT

THE DEPUTY BAILIFF: 1. Bradley Withe, you are 20 years of age and were 19 when you assaulted your then girlfriend who was 18 years old at the time. 2. We should say at the outset that were it not for your age and the protection given to you by statute under the Criminal Justice (Young Offenders) Law 2014 then you would now be beginning a custodial sentence. 3. Your former girlfriend, who we will refer to as your partner in these remarks, was in a relationship with you for approximately 8 months. As the relationship progressed, and as the Jury heard, you became violent, coercive and controlling towards her, isolating her from her friends and family. She told the jury that the relationship between you was good at the start, then it changed. She said that you were very jealous, you were not happy that she was working in an environment where she was the only girl. She told the Jury " he didn't like me working with men, he did not like me socialising with my friends. He told me it was no good for me to be with them ". She said " the longer we were together the more he did not like me to go out with my friends ". She told the jury about a time in a nightclub when she was talking to a male friend who you approached, picked up by the neck of his shirt and threw over, leading to you being thrown out of that nightclub. She told the jury about times when you were not keen for her to go to work and you would try and persuade her not to go, and sometimes you would not let her go and she would go back upstairs having got ready for work. She spoke about times when you assaulted her. She said there were times when she tried to end the relationship and you threatened to kill yourself or hurt her. You would shout and explode and say things about her mother and that your partner's mother did not care for her. 4. The Crown say this was a typical pattern of domestic abuse; with the abuser trying to isolate the victim from her family and from her friends and, indeed, your partner ended up voluntarily removing men from her telephone if they were Snapchat contacts of hers. She did this because she did not want you to be upset. She said " I wrote all the passwords in a book at his Mum's house so that he would not stress about what I was doing ". She said she ended up not speaking to her friends because you made her think they did not like her, and she believed everything you said. 5. That was the background to an assault that took place on 17 February last year at your home - but also your partner's home as she had moved into your home approximately one month before the assault. After an argument about something insignificant, you prevented her from leaving the house for work, trapping her within, taking her coat and bag

from her and then assaulting her. You told her that nobody cared about her, that no one could hear her crying. She sent a message to her mother after the assaults began saying that she was scared and that you would not let her leave for work. She asked her mother to come and get her. She activated the video function on her mobile telephone and the jury heard some of what transpired between you - only audio as the telephone was in her pocket - but they heard you refusing to let her leave the house, they heard her saying that she wanted to go to work and that you were hurting her, and they heard (on your partner's account) her being pushed down the stairs which happened on more than one occasion. 6. During this prolonged assault, you pushed her onto the floor, putting one hand over her face and another on her neck. She described herself as choking and crying, but shortly thereafter she managed to get downstairs when her mother arrived. 7. Your partner sustained bruising, including fingerprint bruising to her arms, and she told her mother that day what had happened to her and she confided to a friend at work shortly thereafter about the way in which she had been assaulted. 8. Not long afterwards you left to go and live in Scotland. Your partner only complained to the police when you returned to the island approximately two months later. Although in March of last year you apologised to your partner by text for what you had done, you pleaded not guilty when you were charged with grave and criminal assault. You contested the matter before the jury. The jury unanimously found you guilty of common assault. 9. Whilst on bail for this offence, indeed only two weeks after you were charged at Court and bailed, you committed another assault - punching a stranger in the face at 2am in the morning on 30 July 2022 whilst he was queuing for food in Mulcaster Street. This was a wholly unnecessary and in our judgment unprovoked assault. When you were stopped by the police you lied about what you had done - although ultimately you pleaded guilty after you had been positively identified as the offender, which was shown clearly by CCTV footage which we have seen. 10. You gave no assistance to the police in your interviews in relation to either offence and you lied in evidence before the jury. 11. In the Pre-Sentence Report prepared for today, we note that you still reject the verdict of the jury and blame your victim for what happened. You take no responsibility for what you did. Accordingly you are unable to appreciate the impact your actions had on your victim. You have no previous convictions, although you have appeared before the Parish Hall in relation to various matters that you admitted. 12. You are in employment - which is positive - and have a good job. The Probation Officer notes that you hold a number of attitudes which support domestic abuse, as listed in the report. You are at moderate risk of reconviction and there is a risk that you will behave aggressively again in any future personal relationship. These findings have led to the recommendation of a Probation Order with a condition that you undertake the Jersey Domestic Abuse Programme to tackle the causes of your offending. 13. We have considered the statement of your victim whose life has been affected by your behaviour. She experienced months of sleeplessness. Her relationship with her mother has been affected by your attempt to persuade her that her mother did not care for her. She is often too scared to walk home alone and she seeks a restraining order against you, and she says that she is deeply affected by the abuse she suffered at your hands. We grant that order in the terms sought by the Crown for the period of 3 years from today. If you breach that order then you will be charged with a separate offence and brought to Court accordingly. 14. Domestic abuse committed by an adult, as you were, albeit an adult protected by the terms of the Criminal Justice

(Young Offenders) Law 2014 is unacceptable and the abuse that you subjected your partner to was unacceptable. We have had regard to the leading case on the appropriate approach to such cases in Jersey, namely the case of *Coelho v AG*

[2020] JRC 216 and in that case, at paragraph 26 of the judgment, the Superior Number listed various aggravating features as identified by the Sentencing Council for England and Wales and adopted in that case in this jurisdiction. Those aggravating factors are to a significant extent present in this case. Firstly, "an abuse of trust and an abuse of power". In this case you did abuse the trust placed in you by your partner. Secondly, that the Victim was "particularly vulnerable". Well you had made your partner vulnerable by the previous assaults and controlling and coercive behaviour to which we have referred. Thirdly, "steps taken to prevent the victim reporting an incident" or "obtaining assistance". This is what you did on the day of the assault by effectively trapping the victim in your home. And finally "a proven history of violence or threats by the offending in a domestic context" - in this case there was such a history (to which we have referred) involving reprehensible conduct on your part with your partner the victim. 15. We have also considered the provisions of the Domestic Abuse (Jersey) Law 2022, recently enacted which came into force on 21 June. In particular we have considered whether or not in this case you committed a "relevant offence" for the purpose of Article 1 of the law and a relevant offence means, inter alia,; "(b) any other offence or combination of offences under Jersey law, whether statutory or customary, that - (i) involves the offender behaving abusively towards a person aged 16 or over to whom the offender is personally connected, and (ii) consists of more than one act or failure to act." 16. We have considered the definition of "abusive" in Article 1 and we are in no doubt that the offence of common assault in this case, bearing in mind the circumstances we have described does amount to a "relevant offence" for the purposes of this Law as it consisted of abusive behaviour consisting of assaults and controlling and coercive behaviour which we have described, including preventing your partner from going to work, trapping her in the house, and assaulting her repeatedly. Accordingly in those circumstances the Court's powers to make orders under the Domestic Abuse (Jersey) Law are engaged in this case, but we agree in the circumstances of this case that it is inappropriate to make a domestic abuse protection order under Article 5 the Law. We agree with the Crown that the test is not met as there is no suggestion of resumption of the relationship so as to place your victim at risk of further abuse and we have on balance decided not to impose the notification requirements under Article 11 of the Law. We have made that decision in the light of the restraining order that we have made, the contents of the Pre-Sentence Report and the terms of the Probation Order that we are going to make. 17. We agree with the Crown that, on balance, you do enjoy the protection of the Criminal Justice (Young Offenders) Law 2014 to the extent that we are unable to find that the offence is so serious that only that only a custodial sentence can be justified in this case. But the Community Service Order that we impose is a direct alternative to custody, so you should understand that if you fail to complete the order that we are about to impose, or the connected

Probation Order, then you will be brought back to this Court, the Royal Court and, absent exceptional circumstances, sentenced to a term in custody. We should also say that were you an older offender then the circumstances of this case would have led to an order being made equivalent to a much longer custodial term. 18. The sentences we impose are as follows. For the first assault, 180 hours' Community Service, equivalent to 12 months' custody. For the second assault, 20 hours' Community Service consecutive, equivalent to a 2 month consecutive sentence yielding a total of 200 hours' Community Service, equivalent to 14 months in custody. On both offences we make a concurrent order of 12 months' probation with a condition that you attend such courses as directed. 19. We make a restraining order for 3 years as indicated. 20. We order that you pay a contribution to prosecution costs in the sum of £1,500 at the rate of £300 a month with the first payment to be made on 1 November or the Friday before if that falls on a weekend. Authorities Criminal Justice (Young Offenders) Law 2014. Coelho v AG

[2020] JRC 216 . Domestic Abuse (Jersey) Law 2022. Harrison v AG

[2004] JLR 111 AG v Crabtree

[2017] JRC 143 AG v Horn

[2010] JRC 104 AG v Sudol

[2022] JRC 143 AG v Doran

[2020] JRC 129 AG v Gallie

[2017] JRC 104 Crime (Disorderly Conduct and Harassment) (Jersey) Law 2008 Page Last Updated: 12 Oct 2023 Back to top About JLJB Accessibility Contacts Disclaimer Feedback Privacy policy Site map © Jersey Legal Information Board 2001- This website is not compatible with your web browser. You should install a newer browser . If you live in Jersey and need help upgrading call the States of Jersey web team on 440099. BAILII: Copyright Policy | Disclaimers | Privacy Policy | Feedback | Donate to BAILII

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