

JERSEY / JUDGMENT

AG -v- Y [2011] JRC 032B (04 February 2011)

[2011] JRC 032B

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JUDGMENT

THE BAILIFF: 1. Y, you are before the Court for a number of offences of dishonesty and also for neglect of your step-children. The most serious dishonesty offence is the breaking and entering of a house at night which was occupied by an elderly man living alone. The Court has repeatedly said that burglary of residential houses, particularly at night, is to be treated seriously, not least because of the feelings of fear and insecurity which such offences can cause in those whose lives are disturbed in that way. 2. You have an appalling record and you are also, by these offences, in breach of a Probation Order and a Community Service Order, and it is quite clear from the reports that you have not taken advantage of the assistance which Probation have been able to offer. 3. You are said to be at high risk of re-offending and we are quite satisfied that there is no alternative to prison. Until you deal with your drink and drug problem the outlook is bleak and we hope very much that you will address these problems whilst you are in prison, take advantage of the facilities there so that when you come out you can begin to try and turn your life around, because unless you do, sadly you will find yourself going back to prison over and over again and I am sure you do not want that to be the end result. 4. In mitigation Miss Fogarty has pointed out your guilty plea which we take note of, your cooperation on some of the offences, and the contents of the background report. She has also referred to the delay in the charge in relation to neglect; the police found you in the flat with the children on the 26th January, all the evidence was available then and yet you were not charged until 23rd November. That was a completely unacceptable delay; we do not know the reason for it but it is hard to think of any justification for it. People are entitled to be investigated and charged promptly. Clearly in some cases involving fraud, then there great complexities but there was none that we can see in this case. Miss Fogarty has argued that we should therefore take that into account and endorse the Crown's conclusions that the neglect charges should be concurrent. But in this particular case we do not think the delay has caused any prejudice; you have committed all these other offences which have resulted in your being here and the delay caused to these proceedings by the delay in charging the neglect offences is very minor. 5. Furthermore, in our judgment it is outweighed by the importance of ensuring that different offences are indeed dealt with consecutively to make sure that they are properly punished. In our judgment, to make the neglect offences concurrent would be to betray that principle. We think therefore that the neglect offences need to be made consecutive. 6. The sentence of the Court is as follows:- on Count 1 of the Second Indictment; 3 months' imprisonment and on Count 2; 3 months' imprisonment, concurrent on the basis we think that 3

months' imprisonment is correct for the neglect offences. On the First Indictment we grant the conclusions of the Crown that is 1 month's imprisonment on Count 1, Count 2; £250 or 5 days' imprisonment in default, concurrent, Count 3; 1 week's imprisonment, Count 4; 1 month's imprisonment, Count 5; 3 months' imprisonment, Count 6; 3½ years' imprisonment, Count 7; 1 month's imprisonment, Count 8; 1 month's imprisonment, all of those to be concurrent but to be consecutive to the charges on the First Indictment. In relation to the offence for which you are in breach of probation and breach of community service, we impose a sentence of 3 months' imprisonment, that to be consecutive to the sentences on the Indictments. That makes a total of 4 years' imprisonment. 7. We order the forfeiture and destruction of the drugs. Authorities Children (Jersey) Law 2002. Road Traffic (Jersey) Law 1956. Sentencing Guidelines Council - Overarching Principles: Assaults on children and cruelty to a child. Wylie v AG

[2002] JLR N6 Wylie v AG 2002/13. R v Webbe

[2002] 1 Cr App R (S) 22 . AG v Da Silva

[1997] JLR N14a. AG v Da Silva 1997/218. R v Brewster and Others

(1998) 1 Cr App R (S) 181 . Whelan: Aspects of Sentencing in the Superior Courts of Jersey. R v Hodgkinson (1980) 2 Cr. App. R. (S) 331. Page Last Updated: 07 Feb 2017 BAILII: Copyright Policy | Disclaimers | Privacy Policy | Feedback | Donate to BAILII

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