

JERSEY / JUDGMENT

AG v Z [2017] JRC 022 (27 January 2017)

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JUDGMENT

THE DEPUTY BAILIFF: 1. You are to be sentenced today with regard to two counts of unlawful sexual intercourse which took place on the night of 4th to 5th September, 2015, when you were 17 years of age. Your victims were both 15 years of age. With regard to the first charge, the victim in question was your girlfriend, although you had not been together for very long at all, and there is no doubt that what took place between you was part of that ongoing relationship and was indeed expected by her. With regard to your second victim, however, this appears to have had an element of opportunism about it in that the girl in question was very drunk indeed and there is no suggestion of an ongoing relationship. Also we note that in connection with that offence you lied on a number of occasions about what had happened. 2. We understand the context of these offences, namely a party at your home in which alcohol was freely available, that you were intoxicated, as were indeed both of your victims. It is difficult for us to view that intoxication as exculpatory in any way at all. It is an aggravating feature. We view any offence of unlawful sexual intercourse as serious but accept that by reason of the proximity of the ages between you and your victims the context in which the offences took place, and the fact that with regard to your first victim you were in a relationship with the young woman in question, this places your particular offending towards the lower end of seriousness for cases such as this, at least where the first victim is concerned. It cannot be said that you were cooperative with the police with regard to the second offence nor that you have displayed any real remorse at all in connection with that second offending. We view that matter as more serious because, as we have said, you were not at that time in a close personal relationship with the victim. 3. We note your guilty plea, which is of value in connection with the first offence, but you did not originally plead guilty to the second and, accordingly, your victim was put through the stress of believing that she might need to give evidence about what happened to her. 4. You have no previous convictions and we note the extremely difficult circumstances that you have faced personally in recent years and in particular around the time of this offending which was only two weeks after the death of your father. We also note the other strong mitigation available to you not least of which is the supportive reference from the Grace Trust, which is exceptional in its terms, and speaks very well of you indeed. We also note that at the time of your offending you were, and you remain, a young offender and accordingly the provisions of the Criminal Justice (Young Offenders)(Jersey) Law, 1994 apply. 5. We turn first to the orders that are sought under the Sex Offenders (Jersey) Law, , and in our view the period of 5 years, as requested by the Crown, is an appropriate period before

which you may apply to come off the register. This indeed was not opposed by you through your counsel. 6. We also impose a Restrictive Order under Article 10 of that law, again for a period of 5 years, both periods to date from today's date, to the effect that you must not have any direct or indirect contact with the second victim in this matter. 7. We turn now to the matter of sentence. With regard to the first count we think that by reason of the ongoing friendship, this makes this less serious, and we think that it is appropriate to meet it with a Probation Order of 18 months' duration. With regard to the second count our view is different. We repeat again the element of opportunism and carelessness and that there was no suggestion of a pre-existing relationship or friendship. In all the circumstances of this case, however, including all the mitigation which we view as substantial, we think that a period of community service is appropriate and we think that it should be a lesser period than recommended by the Crown as an alternative. You are directed to complete 120 hours' community service which is the equivalent of 6 months' imprisonment. So that makes a total of 120 hours' Community Service Order together with an 18 month Probation Order. Authorities Sex Offenders (Jersey) Law, 2010. AG-v-Kittleson [2011 JLR Note 8],

[2011] JCA 052 . AG-v-Dickinson

[2005] JRC 135 . AG-v-H

[2016] JRC 142 Criminal Justice (Young Offenders)(Jersey) Law 1994. Page Last Updated: 20 Apr 2017 BAILII: Copyright Policy | Disclaimers | Privacy Policy | Feedback | Donate to BAILII

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