

JERSEY / JUDGMENT

Davis & Pringle -v- AG [2005]

JRC 078 (08 June 2005)

[2005] JRC 078

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JUDGMENT

THE BAILIFF: 1. These are appeals by Craig James Pringle and Paul Davis against sentences of 2 months' imprisonment imposed by the Assistant Magistrate for offences of assault against the same victim. 2. The assaults took place inside licensed premises and at the time in question both appellants had been drinking. Whether or not they were drunk, they were certainly under the influence of alcohol. The assaults were unprovoked. It appears that Davis recognised the victim as someone against whom he had a grievance going back some 2 years and having identified him head-butted him causing a minor injury to the victim's chin. Seeing this, the appellant Pringle kicked the victim making contact above the groin on the lower stomach. 3. The appellants were evicted and caused some disturbance as they were removed from the licensed premises. Counsel for Davis made a number of points. 4. First, she submitted that the Assistant Magistrate should have asked for a stand-down probation report. The Assistant Magistrate had, at an earlier hearing, commissioned a report from the Probation Service. Two letters from the Probation Officer asking Davis to come in for an appointment had apparently gone astray, or in any event, had not been received by him. 5. Counsel submitted that Davis had made a phone call to the Probation Office but it is clear that otherwise he had made no effort to get in touch with or to assist the Probation Office to prepare the report which had been commissioned by the Assistant Magistrate. 6. Counsel could not point to any new matter which might have been put before the Magistrate had a stand-down or other report been ordered by him. We do not think that the Assistant Magistrate can be criticised in the circumstances of this case for refusing to adjourn the trial so that either a full or a stand-down report could be obtained. 7. Secondly Counsel referred to guidelines published by the Magistrate's Court which refer under the heading of "assault" to the consideration of a non-custodial sentence, a fine of £350 and imprisonment for one week. This guideline and indeed other guidelines published in the same document have caused us some concern. We think that this guideline in relation to common assault is wholly inadequate and we encourage the Magistrate's Court to carry out a wholesale review of the guidelines which we have seen in the context of this appeal. 8. It is plain to us that a sentence of 1 week's imprisonment is, or would be, a quite inadequate punishment for a great many common assaults and we are aware that sentences of up to 6 months' imprisonment in the Magistrate's Court are commonly imposed for certain assaults. The equivalent English guideline refers to a maximum

penalty of 6 months' imprisonment for the equivalent offence but in Jersey the courts have been known to impose up to 12 months' imprisonment for very serious common assaults. This, of course, was not a very serious common assault, but we are none the less, not persuaded that this ground of appeal has any substance. 9. Counsel for Pringle relied upon those same grounds but in addition submitted that the reference to the victim as being a doorman, rather than some other employee, working in the nightclub was wrong and might have misled the Magistrate. We find no substance in this complaint. 10. In essence we have to ask ourselves whether a sentence of 2 months' imprisonment was either wrong in principle, or manifestly excessive in all the circumstances of the case. It is not for us to substitute our own discretion. The Assistant Magistrate clearly wished to send out a strong message that unprovoked violence on licensed premises whilst under the influence of alcohol was too prevalent and ought to stop. In that respect we agree with him entirely. 11. Having given careful consideration to all the circumstances of the appellants, including their antecedents and personal circumstances we cannot find that the sentences imposed by the Assistant Magistrate were either wrong in principle or manifestly excessive. The appeals are accordingly dismissed. *Authorities Whelan -v- A. G.* (10 th July, 2000) Jersey Unreported; [2000/129]. Page Last Updated: 14 Jul 2016 BAILII: [Copyright Policy](#) | [Disclaimers](#) | [Privacy Policy](#) | [Feedback](#) | [Donate to BAILII](#)

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