

JERSEY / JUDGMENT

AG -v- M and N [2015] JRC 184 (04 September 2015)

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JUDGMENT

THE DEPUTY BAILIFF: 1. We deal firstly with two preliminary matters. Firstly we repeat the observations of the Crown that pursuant to Article 3 (1) of the Criminal Justice (Anonymity in Sexual Offences)(Jersey) Law no publicity may be given relating to the victim in this case that might lead to her identification. In our view that extends to the naming of the accused in this case and we are glad to note, as has been communicated through counsel, that the media agree with this approach. 2. Secondly, for the reasons advanced by counsel for the defence, we direct that the period that must pass before either of you can apply to be taken off the Sexual Offenders Register is one of 2 years from the date of your conviction, namely 1 st July this year. 3. The offences for which you are to be sentenced are very serious indeed. They identify a course of conduct of incest with your sister when, in the case of M, she was between the ages of 5 and 9, and in the case of N, she was between the ages of 7 and 11. They also identify a course of conduct of indecent assault and procuring acts of gross indecency. It all started before you were old enough to be criminally responsible but continued after that and the charges reflect these later examples. 4. We accept that there was no violence used as such but we also proceed on the basis that an element of coercion was used and that you threatened your sister and warned her not to tell anyone. You kept a lookout for each other and you knew that what you were doing was wrong. 5. We have read your sister's letter to you both as part of her victim impact statement describing the effect of your actions on her and on her life. The Crown describes that letter as harrowing and we can only agree with that characterisation. We hope that she can find some peace and escape the effects of your actions in the time to come. 6. We have read with care the reports provided to us in this case, particularly the social enquiry reports and the psychological assessments and reports, and we have found much in those reports to be persuasive. Not all of the contents of those reports to which we have had regard have been deployed or referred to in open court. 7. M, you have pleaded guilty and that carries with it a high value by way of mitigation. You have spared your sister the ordeal of having to give evidence in court and it is perhaps the best evidence of remorse, although we view that remorse as somewhat qualified by the characterisation of it in the various reports. We have read the references that apply to you, which speak well of you, and we have had regard to the delay, which was not of your making, from the time when you were first arrested to the time when you were charged. In particular, as

we are bound to do we have had particular regard to your youth at the time when you committed these offences. You were a child yourself. 8. N, you too have pleaded guilty and you are entitled to the same amount of credit as your brother because it has the same benefit. The Court accepts the genuineness of your remorse and, again, we have had regard to the references. You were led into this initially by your brother and we accept that there was an element of bullying involved within the family relationship. We have also paid particular regard in your case to the psychological reports and the challenges that you have faced in your life and, again, we have taken into account both delay and your youth, both at the time of your offending and now. 9. The Court has found this an extraordinarily difficult matter to consider. How should the Court approach it? How do we do justice to reflect the abhorrence that right-thinking people will feel when they hear about the details of your crime and the effect of your crime upon the victim? How do we balance that against your youth and the difficulties that surrounded the family as a whole when you carried out these inexplicable acts? How do we balance them with the other mitigating factors to which we have made reference? 10. In our view the custodial threshold is passed in both of these cases and also in our view the sentence that we pass must contain a punitive element, an element of punishment to reflect the seriousness. However, we think it is appropriate in both of your cases to impose a direct alternative to a custodial sentence. We regard the circumstances of this case as quite extraordinary and exceptional. 11. M, you will be subject to a period of probation for 18 months and you will serve 312 hours' community service, which is an equivalent of 2 years in custody. 12. N, you will have a Probation Order of the same duration, 18 months, and you will serve 180 hours of community service, the equivalent of 12 months in custody. 13. You must obey the directions of the Probation Service and participate fully in all of the treatments that they direct you to undertake and that they offer you, which have been set out in more detail in your respective social enquiry reports. Authorities Criminal Justice (Anonymity in Sexual Offences) (Jersey) Law 2002. Sex Offenders (Jersey) Law 2010. Criminal Justice (Community Service Orders) (Jersey) Law 2001. Criminal Justice (Young Offenders)(Jersey) Law 1994. AG v- E, F

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