

JERSEY / JUDGMENT

Mahoney v AG (Royal Court : Hearing (Criminal) : Temple) [2026] JRC 098 (16 April 2026)

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JUDGMENT

THE DEPUTY BAILIFF: 1. This is an application by Jakob Mahoney (the "Applicant") for an extension of time within which to appeal his conviction and sentence. I refused the application on the papers on 24 February 2026 and these are my reasons.

Background

2. On 22 September 2025, the Applicant, represented by Advocate Nicholls, personally entered guilty pleas in the Magistrate's Court to the following charges: (i) Charge 1 - Grave and criminal assault of Mr Abreu, who was a member of the door staff at the Watersplash; (ii) Charge 2 - Common assault of Mr Langlois, a paramedic; (iii) Charge 3 - Common assault of Ms Le Maistre, also a paramedic; and (iv) Charge 4 - Possession of a tablet of MDMA, a Class A drug. 3. The case was adjourned for sentence to 20 October 2025 and a pre-sentence report was ordered. At sentencing on 20 October 2025, the Applicant was represented by Advocate Mière, and was sentenced by the Magistrate as follows: (i) Charge 1
 - 8 months' imprisonment; (ii) Charge 2 - 4 months' imprisonment; (iii) Charge 3 - 7 months' imprisonment; and (iv) Charge 4 - £350 fine or 3 weeks' imprisonment in default. 4. The Magistrate also ordered the forfeiture and destruction of the drugs and made compensation orders in the sum of £500 each in favour of Mr Abreu and Ms Le Maistre, with 3 weeks' imprisonment in default on each order. The Law 5. Article 33 of the Criminal Procedure (Jersey) Law 2018 (the "CPL") provides as follows: "33. Right of appeal (1) A defendant convicted by the Magistrate's Court may appeal to the Royal Court in the circumstances set out in paragraph (2). (2) If the defendant -
- (a) pleaded guilty or admitted the facts, he or she may appeal against the sentence or order;
- (b) pleaded not guilty, he or she may appeal against the conviction, sentence or order; or

(c) pleaded not guilty and was sent to the Royal Court for sentencing under Article 27, he or she may appeal against the conviction." 6. Article 34(1) of the CPL provides that "an appeal under Article 33 shall be commenced by the appellant giving notice of appeal to the Judicial Greffier not more than 7 days after the day on which the appellant was convicted, sentenced or the order was made". A Notice of Appeal should be in writing and shall state the general grounds of appeal. In this case, the Appellant provided a written Notice of Appeal to the Judicial Greffier dated 7 November 2025. The Notice of Appeal should have been given by 27 October 2025. 7. Accordingly, the Appellant applies under Article 34(3) CPL which allows the Court to grant an extension of time in which to appeal. The application included grounds of appeal asserting, inter alia, that not all evidence was shown in Court, that the Applicant had been let down by his lawyers, Steenson Nicholls, that the Applicant suffered from PTSD, that the police should not have interviewed him as he was not in a fit state to be interviewed, and a claim that there should be a re-trial or all charges should be dropped. 8. The form filed with the Judicial Greffier applying for an extension of time within which to give Notice of Appeal was filed by the Applicant on 15 December 2025. It stated that his lawyers had sent him the Notice of Appeal form too late, giving him no time to appeal his case to the Courts. The Applicant also claimed that the necessary support was not provided to him in the prison and a covering letter also made allegations against his lawyers, Steenson Nicholls. Documentation considered 9. In addition to the Applicant's completed Notice of Appeal and application for an extension of time forms and his correspondence, the Applicant provided a waiver of privilege in the advice provided to him by his lawyers, Steenson Nicholls. In response to this, Advocate Paul Nicholls provided an affidavit concerning his and his firm's representation of the Applicant. The affidavit exhibited a note of a meeting with the Applicant on 20 August 2025, an internal email commenting on the prosecution disclosure dated 11 September 2025, a written summary of Advocate Mière's plea in mitigation on 20 October 2025, and a letter dated 27 October 2025 from Advocate Mière to the Applicant sent by email to the prison, advising on the sentence of the Magistrate and confirming that Advocate Mière was satisfied that there were no meritorious grounds for appeal against the sentence, but providing the Notice of Appeal form under Article 34 of the CPL. The affidavit also attached a copy of a pre-sentence report dated 14 October 2025 prepared by the Jersey Probation Service. 10. In addition, the Respondent filed written contentions which attached copies of, inter alia, the police CJU5 and a note of the Magistrate's sentencing remarks on 20 October 2025. Discussion 11. In *Benyoucef v AG*

[2022] JRC 273, Commissioner Sir Michael Birt dealt with an application for an extension of time in which to appeal sentence. At paragraph 11 of that judgment, Commissioner Birt noted: "It is well established that, when considering whether to grant an extension, the Court will consider three aspects in particular, namely the length of the delay in appealing, the reason for the delay and the chances of the appeal succeeding if an extension of time were to be granted." Extent of the delay and reason for the delay 12. As regards appeal against sentence, the Applicant was sentenced on 20 October 2025 and his time for appealing sentence expired on 27 October 2025. Advocate Mière's letter dated 27 October 2025

advised the Applicant that his time for appealing expired on 28 October 2025. 13. In Benyoucef , the Notice of Appeal had been filed some two months late and Commissioner Birt noted at paragraph 15: "The fact that a litigant is acting in person is not of itself sufficient excuse for failing to comply with time limits. Although given in the context of civil proceedings rather than criminal proceedings, the observation of Lord Sumption in *Barton v Wright Hassal LLP*

[2018] 1 WLR 119 at [18] that "the rules do not in any relevant respect distinguish between represented and unrepresented parties" is equally apposite. To like effect is the observation of Lord Briggs in the same case at [42] that "... There cannot fairly be one attitude to compliance with rules for represented parties and another for litigants in person, still less a general dispensation for the latter from the need to observe them." Lord Briggs went on to say that the fact that a litigant was acting in person might mitigate "at the margin" the gravity of failing to comply with the rules but that was all." 14. In the present case, the Applicant is unrepresented and has set out that he did not receive Advocate Mière's advice on appeal until the seven-day time limit for appealing expired, that " the necessary support is not provided in the prison facilities " and that further delays arose because he was awaiting a response from the Court. 15. In the present case, the delay is for a relatively short period, being some ten days. I might have been minded to grant the extension of time had it not been for the third aspect for the Court to consider, namely the chances of the appeal succeeding if an extension of time were to be granted. Chances of the appeal against sentence succeeding 16. The test on appeal against sentence is summarised in *McDonald v AG*

[2025] JRC 323 at paragraphs 11 to 12: "11. As to the test on appeal this Court, (see *Ahmed v Attorney General*

[2006] JRC 196) needs to find that the sentence imposed by the Magistrate was wrong in principle or manifestly excessive if it is to interfere. This is not a re-hearing. This is not a second go for an appellant on the same facts to ask this Court to sentence him or her afresh. 12. However, in the case of *Bhojwani v Attorney General*

[2011] JLR 249 to which we have been referred by the Crown, the Court of Appeal set out the test for an appeal from the Royal Court to the Court of Appeal and it has been said on more than one occasion that the same approach is justified on appeals from the Magistrate's Court to this Court. In *Bhojwani* the Court of Appeal said: "In broad terms, it is submitted that the Court will interfere: (a) where the sentence is not justified by law, in which case it will interfere not as a matter of discretion but of law; (b) where sentence has been passed on a wrong factual basis; (c) where some matter has been improperly taken into account or there is some fresh matter to be taken into account; or (d) where the sentence was wrong in principle or manifestly excessive."" 17. Applying this test, firstly I am satisfied that the sentences passed were justified by law and were in accordance with the Magistrate's Court Guidelines. 18. Secondly, the sentence was not passed on the wrong factual basis insofar as the Applicant now appears to be contending that a basis of plea

should have been submitted in his case. It is clear from the summary of his police interviews and the notes appended to Advocate Nicholls' affidavit that the Applicant could not recall the events on the evening of 14 June 2025. The CJU5 records that the Applicant had been drinking and had taken half of an MDMA tablet. The Applicant explained that "he had absolutely no memory of the paramedics being called, arriving or being present at the time and that he was unable to comment about the alleged assaults on both paramedic staff". In relation to the grave and criminal assault by biting on Mr Abreu, whilst the Applicant had described the door staff as being heavy handed and that he was acting in a manner of self-defence, the Applicant confirmed that biting is not acceptable and would not have been a proportionate way of dealing with the situation and it should never have happened. The Applicant further confirmed during interview that he was apologetic and described himself as "blackout" drunk. Further, from Advocate Nicholls' affidavit and the documents exhibited to it, all matters raised by the Applicant in his Notice of Appeal and letter were in fact put to the Magistrate at sentencing on 20 October 2025. 19. No matters were improperly taken into account and there are no fresh matters to be taken into account. It is clear from the sentencing remarks of the Magistrate that the mitigation before the Court was taken into account when considering sentence. The Applicant is not seeking to rely on fresh matters in relation to his appeal. 20. Further, the sentences passed by the Magistrate were not wrong in principle or manifestly excessive. In relation to the four specific charges: (i) The grave and criminal assault on Mr Abreu fell within band B of the Magistrate's Court Guidelines for assault. The starting point for an offence in this band for a first-time offender pleading guilty is six months and the sentencing range is a £4,000 fine to twelve months' imprisonment. (ii) The assault on Mr Langlois fell in between band A and B of the Magistrate's Court Guidelines for assault on Police, Medical Professionals and Emergency Workers. The Magistrate sentenced the Applicant to four months' imprisonment which is the top of band A and the bottom of band B. (iii) The assault of Ms Le Maistre fell within band B of the Magistrate's Court Guidelines for assault on Police, Medical Professionals and Emergency Workers. The Magistrate held that this offence was aggravated by the particular harm caused to Ms Le Maistre as a result of the assault. (iv) The Magistrate's Court Guidelines in respect of assaults on emergency workers also notes - "The Court should impose significant penalties to deter such assaults and to protect such workers and to protect the public. Offenders should expect an immediate custodial sentence save in exceptional circumstances." Appeal against conviction 21. Article 33 of the CPL does not allow an appeal against conviction where a guilty plea has been entered, as the Applicant did in this case on 22 September 2025. 22. However, in *Bouchard v AG*

[2021] JRC 236, the Royal Court held that it did have jurisdiction to hear an appeal against conviction, notwithstanding that a defendant had pleaded guilty provided that there were "wholly exceptional circumstances" to permit an appeal. However, in this case, no such wholly exceptional circumstances exist for the reasons set out above. 23. Further, applying the approach set out in *Benyoucef v AG* (see paragraph 11 above), I refused an extension of time for the following reasons. Extent of the delay and reason for the delay 24. In relation

to the Applicant's appeal against the conviction, the Notice of Appeal was filed forty-one days after the Applicant was convicted by entering pleas to all charges on 22 September 2025. This is a significant period of delay and no explanation for it has been provided, beyond the period from sentence on 20 October 2025 already considered above. Prospects of success 25. There are no material prospects of success in relation to the Applicant's appeal against conviction. 26. As regards an assertion by the Applicant that key evidence was withheld, it is not clear what key evidence is referred to. Further, when speaking to Probation for the preparation of the Applicant's pre-sentence report ("PSR"), the Applicant accepted his offending. 27. As regards the Applicant's assertions about his PTSD, this not a matter which would have impacted upon the plea entered by the Applicant. The affidavit from Advocate Nicholls explained that the Applicant had a meeting with him (i.e. Advocate Nicholls) and a colleague, Daniel Clements, on 20 August 2025 to take instructions. Full disclosure from the prosecution was then sought. The initial hearing at the Magistrate's Court scheduled for 10 September 2025 was pushed back to 22 September 2025 to allow disclosure to be obtained and considered with the Applicant accordingly. The disclosure was then provided to the Applicant and the Applicant met with Rebecca Clackett (a Jersey Ecrivain) along with Daniel Clements. At neither meeting was the Applicant advised to enter guilty pleas. According to Advocate Nicholls' affidavit, the policy of Steenson Nicholls is not to advise clients as to plea as they consider this a matter for the client alone. However, they do advise that a not guilty plea will remove the one-third discount on sentence otherwise available for a guilty plea entered at first appearance. Following the second meeting, there was a delay over a weekend for the Applicant to consider it further and the Applicant then confirmed his intention to enter guilty pleas on all counts. 28. In relation to the Applicant's complaints about the conduct of the door staff, the Applicant in his police interview had confirmed that he was intoxicated and taken MDMA. Further, as regards to the conduct of the door staff, this had taken place after the Applicant had assaulted the two paramedics and it could not therefore have impacted upon the plea entered in respect of the two common assaults. 29. As regards the Applicant's complaints about his lawyers, whilst it is accepted that the advice in relation to appeal was sent late to the Applicant, having considered the contents of Advocate Nicholls' affidavit and the exhibits thereto, there appear to be no arguable grounds of appeal. The Applicant was represented by two experienced Jersey advocates, an Ecrivain and a junior member of staff. There is nothing in the affidavit of Advocate Nicholls which suggests that the Applicant was misrepresented or that the plea entered was equivocal in any respect. 30. I therefore also refused the applicant's request for an extension of time for filing Notice of Appeal in respect of his appeal against conviction. Authorities Criminal Procedure (Jersey) Law 2018. Benyoucef v AG

[2022] JRC 273. McDonald v AG

[2025] JRC 323 . Magistrate's Court Guidelines. Bouchard v AG

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