

JERSEY / JUDGMENT

The Attorney General v Ludgero De Freitas Miranda

COURT

Royal Court

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Inferior Number Sentencing – grave and criminal assault.**[2015]JRC212****Royal Court****(Samedi)****16 October 2015****Before :**

J. A. Clyde-Smith, Esq., Commissioner and

Jurats Fisher and Ramsden

The Attorney General

-v-

Ludgero De Freitas Miranda

Sentencing by the Inferior

Number of the Royal Court, following a guilty plea to the following charge:

1 count of:

Grave and criminal assault (Count 1).

Age: 34.

Plea: Guilty.

Details of Offence:

The defendant had been drinking in a

pub and watching football on a Saturday afternoon. He continued drinking at a friend's house. Around 11pm

he returned home with his partner where his step-son was hosting a party. The defendant wanted to join his step-son

and his friends who planned to go into town. The defendant's partner objected as he was already intoxicated and took steps to stop him leaving the

house. An argument ensued and the

step-son, concerned for his mother's safety, sought assistance from his friend.

The friend came between the

defendant and his step-son. In a fit of rage the defendant threw a beer bottle at a window in the lounge. The

bottle shattered. The defendant

took his step-son's friend and held him against the wall and they began

fighting. They fell, causing more

bottles to fall off a table, and continued scuffling on the floor on top of the

broken glass. The scuffle was quickly broken up. The friend suffered serious cuts to the face from broken glass and has scarring to his face.

Details of Mitigation: Guilty plea; remorse.

Previous Convictions: No previous convictions in Jersey or the UK. The defendant disclosed a drug related conviction in Madeira 15 years ago.

Conclusions:

Count 1: 2 years' imprisonment.
Exclusion Order sought for a period of 12 months excluding the defendant from 1st, 2nd, 4th, 5th and 7th category licensed premises from date of sentencing excluding the Multiplex Cinema, Jersey Airport, the ferry terminal at Elizabeth Harbour.

Sentence and Observations of Court:

Count 1: 200 hours' Community Service Order, equivalent to 14 months' imprisonment.
Exclusion Order made for a period of 6 months excluding the defendant from 1st, 2nd, 4th, 5th and 7th category licensed premises from date of sentencing excluding the Multiplex Cinema, Jersey Airport, the ferry terminal at Elizabeth Harbour.
Her Majesty's Solicitor General appeared on behalf of the Crown.
Advocate J. W. R. Bell for the Defendant.

JUDGMENT

THE commissioner: 1. The defendant, who is 34, stands to be sentenced for one count of grave and criminal assault, committed when he was heavily intoxicated, on a 20 year old friend of his son, the victim, who had intervened in an argument between the defendant and his now wife, who was trying to stop him going out. He had thrown a bottle of beer at the window which had smashed, scattering glass over the carpet. The defendant started fighting the victim, who was trying to restrain him, and they fell onto the floor and onto a table causing more bottles to break onto the carpet, where the victim suffered cuts to his face from the broken glass in the ensuing scuffle. The police surgeon found the victim had a number of cuts, some of which have left permanent scars. 2. The Crown has accepted the defendant's plea of guilty on the basis that he accepts responsibility for recklessly causing the injuries to the victim's face, having started the fight with him. The defendant has no previous convictions for violence and is assessed at a low risk of reconviction because he is in a stable relationship, has a young daughter and a good work record. He has been on remand in custody serving the equivalent of a sentence of nearly 4 months. The Crown accept that this is not a glassing case where glass has been used as a weapon but notwithstanding, moves for a sentence of 2 years' imprisonment which, in all the

circumstances, we think is too high. 3. There is considerable mitigation for the defendant. He is effectively a man of good character and it is clear to us that this incident was out of character. He has pleaded guilty; he has been cooperative with the police and very candid with the Probation Department about his past life. The Probation Department confirm that he is genuinely remorseful and he has not attempted to minimise or justify his actions. There is no pattern in his life of alcohol-related violence, or indeed of any violence, and, as already indicated, he has a good work record. There is no impact statement from the victim, from which we have assumed that he has made a full recovery, although he will have some scarring. 4. The defendant also has the support of his wife, who is in Court, and their family and there are a number of very good letters and references which we have received. As against all of that mitigation this was a very frightening incident of violence in the family home, aggravated by the defendant's heavy intoxication. Such conduct must be deterred but we have concluded that this is best done, firstly, by the time that the defendant has already spent in custody, as we have said nearly 4 months equivalent, and secondly, by his paying his debt to society through community service. 5. You are therefore sentenced to 200 hours' Community Service Order which is equivalent to a sentence of imprisonment of 14 months and which takes into account the time that you have spent in custody. 6. In terms of deportation, we are not going to recommend deportation but you must understand that if you offend again then there is a serious risk of deportation being recommended by a future Court. 7. In terms of the Exclusion Order we will impose such an order on the terms set out by the Crown but for a period of 6 months from today's date. Authorities Harrison-v-AG

[2004] JLR 111. Whelan on Aspects of Sentencing in the Superior Court of Jersey. Camacho-v-AG

[2007] JLR 462. Licensed premises (Exclusion of certain Persons)(Jersey) Law 1998.

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