

JERSEY / JUDGMENT

The Attorney General v Pawel Dzielak

COURT

Royal Court

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Superior Number Sentencing – robbery.

[2017]JRC078

Royal Court

(Samedi)

24 May 2017

Before :

J. A. Clyde-Smith, Esq., Commissioner, and
Jurats Crill, Blampied, Ramsden, Pitman Christensen and Milner
The Attorney General

-v-

Pawel Dzielak

Sentencing by the

Superior Number of the Royal Court, to which the accused was remanded by the
Inferior Number on 24th March 2017, following a guilty plea to the

following charge:

1 count of:
Robbery (Count 1).
Age: 32.
Plea: Guilty.

Details of Offence:

On 5th January, 2017
between 7pm and 7:30pm the defendant entered Temple Stores with his hood
up. He approached the counter
holding a large kitchen knife (blade approximately 10-12 cm in length) and
slammed the hand holding the knife into the counter and told the shopkeeper to
“open the till” and “give me all the money quickly”. The shopkeeper took all of the
money out
of the till and gave it to the defendant.
The defendant then took the shopkeeper’s landline and mobile
telephones before running out of the shop, as he left the shop he said “sorry” to the
shopkeeper. The defendant dropped
these phones in a nearby garden.
The defendant was arrested on 10th
January, 2017, after being identified through police enquiries. The defendant had
stayed in a hotel for
three days to evade detection and had used the stolen money to pay for the
hotel along with food, alcohol and cigarettes.
Guilty plea, previous good

	character, eventually cooperative with police, remorse expressed to the Court.
Details of Mitigation:	Guilty plea, previous good character, eventually cooperative with police, remorse expressed to the Court.
Previous Convictions:	None.
Conclusions:	
Count 1:	5 years' imprisonment. Forfeiture and destruction of the knife sought. Recommendation for deportation sought.
Sentence and Observations of Court:	
Count 1:	4 years' imprisonment. Forfeiture and destruction of the knife ordered. Recommendation for deportation made. M. R. Maletroit, Esq., Crown Advocate. Advocate L. J. Glynn for the Defendant.

JUDGMENT

THE commissioner: 1. The defendant stands to be sentenced for one count of robbery. 2. On 5th January, 2017, the proprietor of the store opened the shop at 7am as usual and began his working day. Some time between 9-10am he noticed a male walk past the shop. He did not recognise the male but attention was drawn to him because he was acting strangely. The proprietor noticed the same male walk past the shop on at least three more occasions during the day. Between 7 and 7:30pm the proprietor was alone in the shop when the defendant entered. The defendant had his hood up and approached the counter. The proprietor, who was standing behind the counter, noticed the defendant was holding a large knife in his right hand. The knife was a kitchen-style knife with a black handle and a silver blade approximately 10-12 cm in length. The defendant stood directly opposite the proprietor and slammed his right fist in which he was holding the knife onto the counter. He told the proprietor to open the till and "give me all the money quickly". The proprietor took all of the money out of the till and gave it to the defendant. He estimated that he handed over £300-£400 but was unable to establish a precise figure. The defendant then told the proprietor to "give me your phone" and at that point the defendant walked around the counter where the proprietor was standing, took the iPhone from a docking station and took the landline handset from its dock. The defendant then ran out of the shop and as he left the proprietor heard him say "sorry". The proprietor followed the defendant out of the shop and saw him run down the road but then lost sight of him because it was dark. The proprietor went to the nearest pub and asked the barman to phone the police. Upon their arrival the police found that the proprietor was clearly shaken. A search was undertaken and the iPhone was recovered but

not the cash which the defendant had spent. 3. The Court of Appeal in *Gill-v-AG* [1999] JLR Note 18C said this in relation to the offence of robbery: “No community can tolerate violent robberies of this kind, and any person who commits such a violent robbery in Jersey, whatever may be the circumstances of the robber, must expect to receive severe punishment by a long prison sentence. ... In cases of violence, whether of assault or robbery or rape or other forms of violence, it is necessary that the punishment ordered by the Court should have an element of deterrence, not to deter the offender because it is too late to do that, but

- (1) to deter others who may be tempted to engage in similar violence, and to remind them that if they do so they will similarly face long sentences of imprisonment; and
- (2) to show to the community as a whole that violence of this kind is not to be tolerated and will never be tolerated by the Courts of Jersey.” And we echo those sentiments. 4. We have seen the personal statement made by the proprietor and it is clear that this incident has had a significant impact upon him and upon his family. The defendant admitted to the probation officer that he got a buzz, an adrenalin rush, when he committed the offence. In terms of remorse he appeared to try to excuse himself and genuine remorse for his actions was not detected by the probation officer. The defendant has been assessed at a high risk of reconviction within 12 months and also he has been assessed as posing a high risk of harm to the public. 5. In terms of mitigation we have listened carefully to everything put forward by Advocate Glynn on behalf of the defendant. We have considered the defendant’s letter to us and we do accept that he is now remorseful. After an initial denial he did make a full confession which is to his credit. He has no previous convictions and he is therefore a man of good character. He has a history of mental health problems. Dr Harrison has said that he meets the criteria for diagnosis of Emotionally Unstable Personality Disorder and that he is displaying symptoms which meet the criteria for diagnosis of a mild episode of depression. We have taken all of that into account and everything else we have read in Dr Harrison’s report and we also note that the defendant is using his time constructively in the prison and we commend him for that. 6. In terms of the sentence the Crown seek a sentence of 5 years’ imprisonment but we agree with Advocate Glynn, having looked at the authorities and the authorities she showed to us, that a sentence of 4 years’ imprisonment is more consistent with those authorities. 7. On the one count of robbery you are sentenced to 4 years’ imprisonment. 8. We now turn to the issue of deportation. The test as set out in *Camacho-v-AG* [2007] JLR 462 is whether the defendant’s continued presence is detrimental to the Island and if so what would be the effect of his deportation on the family rights under Article 8 of innocent persons connected to the defendant and the defendant himself. Given the nature of the defendant’s conduct and his lack of remorse we agree with the Crown that his continued presence is detrimental to the Island. 9. Turning to the second part of the test, he was born in Poland and he has no ties to the Island in terms of accommodation, work or family. There are therefore no persons not before the Court, who will be affected by the defendant’s deportation. In relation to his own Article 8 rights the Crown submits, and we agree, that there would be no significant detriment to the defendant and that the deportation would be proportionate in the circumstances.

10. Deportation recommendation is not opposed by the defendant and we therefore do recommend his deportation.
11. Finally we order the forfeiture and destruction of the knife. Authorities Gill-v-AG 1999/160, [1999] JLR Note 18C. Camacho-v-AG [2007] JLR 462. AG-v-Le Feuvre and Watters [2004] JRC 190. AG-v-Power [2006] JRC 073. AG-v-Rousseau [2011] JRC 195.

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