

JERSEY / JUDGMENT

# X v AG [2011] JCA 063 (23 March 2011)

**[2011] JCA 063**

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COURT OF APPEAL 23 March 2011 Before : Dame Heather Steel, D. B. E., President; M. S. Jones Esq., Q. C., and; Sir Hugh Bennett. X -v- The Attorney General Appeal against costs order made by the Royal Court on 25th November 2010. Application for leave to appeal was placed before M. C. St J Birt, Bailiff, sitting as a single judge of the Court of Appeal who granted the application for leave to appeal. S. M. Baker, Esq., Crown Advocate. Advocate D. Steenson for the Appellant.

## JUDGMENT

bennett ja: This is the judgment of the Court. 1. This is an appeal, by leave of the Bailiff sitting as a single judge of the Court of Appeal, against the decision of Sir Christopher Pitchers, Commissioner, of 25 November 2010 whereby he ordered X ("the appellant") to pay the costs of the prosecution, not to exceed £180,000, to be taxed if not agreed. The Bailiff granted leave to appeal "on the basis that ordering costs of this size are unusual (quite possibly for the reason mentioned by the Commissioner in paragraph 3 of his judgment, namely that it is uncommon for people serving long prison sentences to have significant assets) and therefore I think it appropriate for the Court of Appeal to have the opportunity of considering the matter." 2. On 14 April 2010 the appellant was convicted of 12 counts of indecent assault and of 1 count of rape. Of those offences 5 indecent assaults and the rape were committed on victim 1 between 1975 and 1982. Seven offences of indecent assault were committed against victim 2 between 1980 and 1987. The appellant's defence was that he denied committing any of the offences. He was acquitted of 2 further counts of indecent assault. The appellant sought leave to appeal against the convictions which was dismissed by the Court of Appeal on 25 March 2010. The facts leading to these convictions are set out in this written judgment. We do not intend to repeat them. 3. On 15 June 2010 the appellant was sentenced by the Commissioner and Jurats to a total of 8 years' imprisonment in respect of the offences against victim 1 and a total of 4 years' imprisonment in respect of the offences against victim 2, but consecutive to the 8 years in respect of victim 1, making a total of 12 years' imprisonment. The prosecution asked for an order that the appellant pay the costs of the prosecution. Consideration of that application was adjourned. As we have said, that application was determined by the Commissioner on 25 November 2010, but sitting without Jurats. 4. There is no dispute that at the hearing on 15 June the prosecution made it clear that it was applying for an order for costs against the appellant. The transcript of the hearing on 25 November spells out clearly why the issue of costs was not dealt with on 15 June and adjourned. When the Crown Advocate made it known to Advocate Steenson, acting for the appellant, that the prosecution would apply for costs, Mr Steenson responded that he wished to

call the appellant to give evidence on the issue of costs. The hearing on 15 June was a highly charged hearing. The complainants were present; and the appellant received a long sentence of imprisonment. According to the transcript, both advocates agreed that it would be "wholly unseemly" for the issue of costs to be dealt with and that it should be adjourned. And so it was. 5. Both before the hearing of 15 June and then on 30 September 2010 the prosecution, invited the appellant to produce an affidavit of his means. On 10 October, in response to Advocate Steenson's letter of 4 October, the prosecution said that an affidavit of means was necessary both for the Attorney General to seek a realistic order for costs and for the court to make a judgment as to the size of the order. The appellant provided no affidavit, nor any evidence as to his means. 6. On 25 November the Crown Advocate told the Commissioner that (i) he was applying for an order that the appellant, who had funded his legal costs himself, do pay the prosecution's costs, to be taxed if not agreed, (ii) the total of the prosecution's costs were a little over £180,000, (iii) there was no affidavit of means from the appellant, (iv) he owned in his sole name a very substantial property which had been purchased in 1981 for £40,000 and had been substantially converted, and (v) his partner, her 2 babies, her daughter and a friend of the daughter and one of the appellant's sons lived in that property. We will come in due course to set out the submissions on behalf of the appellant to the Commissioner. However it is to be noted that no evidence, documentary or oral, was adduced by or on behalf of the appellant that he was unable to pay, in whole or in part, the prosecution's costs. Further, there was no evidence of the value of the property, such that, if it was sold, the net equity remaining even after deduction of the prosecution's costs would be insufficient to adequately re-house the appellant's family. 7. The main thrust of the submissions by Advocate Steenson to the Commissioner was that an order for costs forms part of the sentence and should be dealt with at the same time as the sentence of imprisonment. When sentencing a defendant the Court must have in mind the totality of the "sentence", i.e. imprisonment and/or a fine and/or an order for costs. It was thus inappropriate to sentence a defendant "twice", once for 12 years and then later adding to that sentence a substantial order for costs. The authority of *Michel v A. G.*

[2009] JCA 099 was referred to. 8. The other main submission to the Commissioner was that the appellant had lost his business, that given the length of sentence of imprisonment and his age of 62 years he was not going to be in any position to earn a living for a substantial period, and that he needed to be in as best a position as possible to provide for his family. 9. In his judgment the Commissioner set out why the hearing of the application for costs was adjourned from 15 June. As to the main submission of Advocate Steenson, the Commissioner said:- "The argument advanced firstly by Advocate Steenson amounts to the fact that that was an unlawful thing for the Court to do, because, he says, the costs are part of the sentence and that should all be passed on one day. It must therefore be his argument that it was unlawful for the Court to adjourn the matter of costs. In my judgment that is wrong. It is certainly true, as was said in *Michel v AG*

[2009] JCA 099 , that costs fall within the definition of sentence in Article 44 of the Court of Appeal (Jersey) Law 1961 in that it includes any order of a Court made on conviction with reference to the person convicted and that is wide enough, as the Court held, to include a costs order. In my judgment that does not mean that it has to be dealt with on the same occasion and that it is unlawful not to deal with it on the same occasion. In terms of considering the application, it is possible now to consider, as I do, the situation that the defendant is serving a significant custodial sentence, and take account of that fact in deciding whether the order for costs should be made. In my judgment it is appropriate to make the application today and I have heard it and will rule on it." He then said:- "The asset against which it is sought to levy the costs is a very substantial property owned by the defendant, occupied by his family now, not, of course, by him. I have not been given an exact figure but it clearly is worth very significantly in excess of the £180,000 costs that are asked for. In my judgment this is an appropriate application to make. The reason why substantial costs orders are not normally made against people serving long prison sentences is the practical one that it is unusual for them to have significant assets against which such an order might be enforced. This is not the case here. It is just that the defendant should pay the costs of the prosecution, which of course are occasioned by his conduct and the need to investigate it and the need for a trial of the issues that he denied, those denials being rejected by the jury by their verdicts." 10. Advocate Steenson in his skeleton argument of 21 February 2011 submitted in paragraph 2 that the thrust of his submissions is:- (i) that costs form part of the sentence; (ii) in totality, the sentence of 12 years' imprisonment and an order for costs in the amount of £180,000 was manifestly excessive; (iii) the making of any order for costs should have been made by the Superior Number of the Royal Court at the time at which the appellant was sentenced to a period of imprisonment; (iv) costs do not follow the event; (v) a defendant has a constitutional right to defend himself and the appellant's defence was not wholly unmeritorious, as he was acquitted on 2 counts on the indictment and none of the counts on which he was convicted was decided unanimously by the jury; (vi) the prosecution of criminal cases is a state function and it should not be regarded as automatic that the state can recover its costs as, in the vast majority of successful prosecutions, the defendant will be impecunious; (vii) the purpose of granting prosecution costs orders is to remunerate the payee and not to punish the payer. 11. The oral submissions by Advocate Steenson on behalf of the appellant were as follow:- (i) Costs do not follow the event in criminal cases; (ii) The authorities suggest that, before a criminal court can make an order for costs against a defendant found guilty must be of the opinion that the defendant has, by his conduct, put the prosecution to avoidable expense or that his defence was hopeless. Overall, there must be blameworthy conduct by a defendant in conducting his defence; (iii) The authorities also lay stress on the constitutional right of a defendant to defend himself and thus it would be clearly wrong to penalise him merely because he had exercised that right. See R v Hayden

[1975] 1 WLR 852 at p.856; (iv) The appellant's defence was not hopeless. Victim 1, having initially made inconsistent statements incriminating the appellant, retracted them. In respect of victim 2, it was not an overwhelming case. The emails passing between the appellant and victim 2, which were apologetic in tone, were capable of a different meaning; (v) He denied all the offences and should not be penalised in costs from having put up a robust defence; (vi) The Commissioner did not find that the defendant was blameworthy for the way in which he conducted his defence; (vii) The Commissioner could not, as a matter of principle, order the appellant to pay the prosecution costs in the absence of any finding of blameworthy conduct; (viii) The Commissioner should not have adjourned the hearing on 15 June and/or the Jurats ought to have been involved in all matters of sentence, including costs; (ix) Although the authorities speak of a costs order as being compensatory, a substantial order for costs involves, to a greater or lesser extent, an element of punishment; (x) Although the appellant makes no complaint as to his term of imprisonment, the total "sentence" including costs was manifestly excessive. Thus no order for costs ought to have been made against the appellant. 12. Article 2(1) of the Costs in Criminal Cases (Jersey) Law 1961 provides:- "Power of Royal Court or Magistrate's Court to award costs Subject to the provision of this Article, where any person is prosecuted or tried before a court to which this Article applies, the court may: (a) if the accused is convicted, order the accused to pay the whole or any part of the costs involved in or about the prosecution and conviction; (b) order the payment out of public funds of the costs of the prosecution; (c) if the accused is discharged from the prosecution or acquitted, order payment out of public funds of the costs of the defence." 13. Article 2(7) states:- "The amount of costs ordered to be paid under this Article shall be ascertained as soon as practicable by the Judicial Greffier." 14. As was pointed out in paragraph 11 of the judgment of the Court of Appeal in *Michel v A. G.*

[2009] JCA 099, there is no express statutory provision for an appeal against an order for costs made by the Royal Court, but Article 24(1)(c) of the Court of Appeal (Jersey) Law confers on a person convicted on indictment before the Royal Court a right of appeal against sentence, which by Article 44(1):- "... includes any order (including an order of banishment or a confiscation order) made by a court when dealing with the person convicted ..." 15. The Court of Appeal concluded in *Michel* that it did have jurisdiction to hear the appeal against the order for costs made in the Royal Court after convicting Mr Michel on indictment. Article 44(1) was wide enough to include a costs order. The Court of Appeal followed the decision of the Court of Appeal of England and Wales in *R v Hayden*

[1975] 1 WLR 852. 16. We agree, with respect, with the interpretation of Article 44(1) of the Court of Appeal (Jersey) Law 1961, in *Michel*, that "sentence" includes the making of an order for costs against a defendant, for the purposes of an appeal. That is because, unless "sentence" includes costs, there is no avenue for an appeal against an order for costs to be paid by a defendant. Defining "sentence" to include "any order made by a court when dealing with a person convicted" is a convenient way of providing that the right to apply to the court for leave to appeal against sentence, conferred by Article 24 of the law, confers

also the right to apply to the court for leave to appeal against any other order. However, so far as the Royal Court is concerned, we consider that the word "sentence" does not include the determination of whether or not to make an order for costs against a defendant after conviction. Article 15(3) of the Royal Court (Jersey) Law 1948 provides that the Jurats shall determine "the sentence, fine or other sanction to be pronounced or imposed". Article 15(1) provides that, in all causes and matters, civil, criminal and mixed, the Bailiff shall be the sole judge of law and shall award the costs, if any. Article 12(1) provides that, where a Commissioner presides over the Royal Court, the powers of the Bailiff specified in Article 15 shall be exercised by that Commissioner. Thus, so far as the Royal Court is concerned, Article 15 makes a distinction between sentencing, to be determined by Jurats, and orders of costs, which are the sole preserve of the Bailiff or Commissioner. Put shortly, therefore, notwithstanding the procedural expedient of defining "sentence" in the Court of Appeal Law to include any order made by the court when dealing with a person convicted, so as bring such orders within the scope of this court's powers of review, in the Royal Court an order for costs does not form part of the sentencing process and is not a constituent of a sentence. 17. But, even if we are wrong about that matter, we turn to the appellant's submission that the making of any order for costs should have been determined in any event on 15 June and not adjourned. 18. Advocate Steenson expressly did not submit to us that the Commissioner acted unlawfully in adjourning to another day the question whether the appellant should pay the prosecution costs. Nevertheless, he submitted that, when considering sentence, all matters of sentence should be dealt with at the same time. Not to deal with all matters of sentence at one time runs the risk of the overall sentence, i.e. in the instant case, a period of imprisonment and a substantial order for costs, being manifestly excessive. 19. We reject that submission. In our judgment the Commissioner had a customary power to adjourn any aspect of sentencing. In *R v Annesley*

(1976) 62 Cr. App. R. 113 the Court of Appeal of England and Wales held that the Crown Court had jurisdiction at common law to postpone the passing of a sentence for more than 28 days prescribed as a limit by S.11(2) of the Courts Act 1971, if the circumstances made it necessary. At p.115 the court said:- "In the judgment of this Court it is clear from these authorities and statutory provisions that the Crown Court still enjoys the common law jurisdiction vested in its predecessors to put off passing the whole of a sentence, or indeed part of a sentence, if the circumstances make it necessary. While accepting this proposition that to take two bites at the sentencing cherry is bad practice, there may be circumstances in which it may be very desirable, when all the material necessary to complete all elements of a sentencing problem is not immediately available, to deal with the substantive sentence at once and postpone what may have to be done in addition, rather than postpone the whole of the sentence till all the material is at hand." 20. So, in this case, that part of the appellant's sentence was adjourned, by agreement, or at least with no objection on the part of the appellant, to another day because the hearing on 15 June, when the appellant received a 12 year sentence of imprisonment was, as the Commissioner said, "an emotional and highly charged occasion." We would like to say that,

far from being bad practice, in our opinion the Commissioner took entirely the proper course in adjourning the issue of costs to another day. 21. This court's approach to appeals by a defendant against an order for costs in the court below was set out in *Self v A. G.*

[2010] JCA 61 . The appellant in that case sought leave to appeal against both conviction and sentence, both of which were dismissed. Part of his application in respect of sentence included an application for leave to appeal against the rejection by the Commissioner of his application for costs and against the order awarding the prosecution £30,000 of its costs. In paragraphs 46 to 48 the Court of Appeal said:- "46. It is only in the most exceptional circumstances that an appellate court will interfere with an award of costs ... 47. Leaving aside instances where the applicant is successful on appeal, it is only in the most exceptional circumstances that an appellate court will interfere with an award of costs in the court below. Again, it is only in the most exceptional circumstances, usually when the disappointed party requests the court below to do so, that the court awarding costs will give written reasons for the decision. Accordingly, it is only where it is manifest that no court acting reasonably could possibly have reached the determination made by the court below that an appellate court will interfere. The standard is not reached here. 48. We accept that, as stated in *Michel and Gallichan v A. G.* [2007] JLR N 13, this court indicated, at least as regards costs on appeal, any order against an unsuccessful applicant or applicant [sic] should not exceed the sum the Attorney General had actually and reasonably incurred." 22. Advocate Steenson accepts that in the instant case the Royal Court was exercising its discretion under Article 2(1). In our judgment that concession is correct. Article 2(1) provides that the Court "may" make an order for costs, which clearly implies that the court has a discretion. 23. We, with respect, agree with the Court of Appeal in *Self* that this court can only interfere with an award of costs by the court below if it is satisfied that no court, acting reasonably, could possibly have reached the determination it did. In other words the decision of the court below was perverse. In our judgment we would add that, in accordance with the decision of the House of Lords in *G v G (Minors: Custody Appeal)*

(1985) 1 WLR 647 an appellate court can also interfere with the exercise of discretion by a court below if the court below has taken into account in reaching its decision something which it should have excluded or failed to take into account in reaching its decision something that it ought to have taken into account. 24. Article 2(1) does not provide that "costs should follow the event" . The Attorney General did not argue and has not argued that costs follow the event. In our judgment the correct approach of a court at first instance to an application by the prosecution for an order for costs against a defendant is set out in the Court of Appeal's judgment in *Michel and Gallichan v A. G.*

[2007] JCA 9 . In that case the applicants unsuccessfully sought leave to appeal against their convictions. The prosecution applied for an order for costs in relation thereto under Article 3(1) which provides:- "The ... Court of Appeal may, when it dismisses an appeal, or application for leave to appeal, under Part 3 of the Court of Appeal (Jersey) Law 1961,

order the appellant to then pay the whole or any part of the costs of the appeal or application ..." 25. In our judgment, when considering the approach courts at first instance should take to an application by the prosecution for costs, there is no material difference in the wording of Article 2(1) and 3(1). Accordingly, the dicta of the Court of Appeal in Michel and Gallichan , which we set out below, are equally applicable to the determination of an application for costs in courts of first instance. In paragraphs 3 & 4 the Court of Appeal said:- "3. We have not been referred to any Jersey jurisprudence dealing with the principles which this Court should apply when considering whether to exercise its discretion and make the order sought. In Coke-Wallis and Anor -v- Attorney General

[2004] JCA 007 this Court, differently constituted, made such an order against the unsuccessful applicants but we have no information as to how the Court approached its decision in that case. In the absence of any Jersey material that would assist us, we consider it reasonable to have regard to the English authorities on Section 18 of the Prosecution of Offences Act 1985 which provides, among other things, that the Court of Appeal may make such order for costs against an unsuccessful appellant or applicant for leave to appeal "as it considers just and reasonable" (Section 18(2)), a test which is both appropriate and flexible. 4. In R. -v- Northallerton Magistrates' Court, ex parte Dove

[2000] 1 Cr. App. R. (S.) 136 at p. 142 the then Lord Chief Justice, Lord Bingham, set out a number of propositions derived from the authorities and applicable to applications for orders for prosecution costs in magistrates' courts. In our opinion the first three of these propositions are equally applicable to the kind of application presently before us and they are as follows: "(1) An order to pay costs to the prosecutor should never exceed the sum which, having regard to the defendant's means and any other financial order imposed upon him, the defendant is able to pay and which it is reasonable to order the defendant to pay. (2) Such an order should never exceed the sum which the prosecutor has actually and reasonably incurred. (3) The purpose of such an order is to compensate the prosecutor and not to punish the defendant. Where the defendant has by his conduct put the prosecutor to avoidable expense he may, subject to his means, be ordered to pay some or all of that sum to the prosecutor." 26. Advocate Steenson submits that the judgment at paragraph 5 of Michel and Gallichan suggests or imports a principle that blameworthy conduct on the part of a defendant must or ought to be found before an order of costs can be made against him or her. The court said:- "Dealing with the propositions in reverse order we consider that the applicants have put the prosecutor to avoidable expense. Whatever the position in a case in which application for leave raises a novel or important point neither application did so in the instant case. Therefore, subject to their means, the applicants should bear the Attorney General's reasonable costs of resisting their applications." 27. Advocate Steenson also relied on the authority of AG v Michel

[2005] JLR 151. In deciding whether the defendant should pay the prosecution costs, the Commissioner took into account what he described as the defendant's general criminality as revealed in all but one of the counts as "overwhelming". 28. We do not accept that the

authorities, whether of Jersey or England and Wales, lay down or suggest that, before a court can order a defendant to pay prosecution costs, there must be behaviour the part of the defendant in the conduct of his defence which can be characterised as "blameworthy". The authorities, we believe, are clear, in establishing that the court must be satisfied that an order for the defendant to pay the costs of the prosecution is "just and reasonable", see Michel and Gallichan and paragraph 1 of Bhojwani v AG

- [2011] JCA 35, where it was accepted that the appropriate test was whether or not it was "just and reasonable" to make a costs order. 29. We would add that in a case where the court imposes a fine the court should also take into account the fourth and fifth propositions set out by Lord Bingham C. J. in *R v Northallerton Magistrate's Court ex parte Dove*
- [2000] 1 Cr. App. R (S) 136 at p.142. Further, where a court is minded to make any financial order against a defendant, whether a fine or a costs order, Lord Bingham's sixth proposition at p.143 is that it is incumbent to give the defendant a fair opportunity to adduce any relevant financial information and make any appropriate submissions and to alert the defendant and his advisers to any unusual or unconventional costs potentially adverse to him. 30. We should also draw attention to what Montgomery JA said in the judgment in *Syvret v A. G.*
- [2009] JCA 181 in paragraphs 22 to 26 that the argument that the power to award costs against a defendant undermined the rights of access to the court guaranteed by Article 6 of the European Convention on Human Rights was "unsustainable". At paragraph 23 she said:- "... the right to award costs in criminal cases in Jersey is strictly circumscribed and not such as to be liable to have a chilling effect on defendants. The power to award costs against a defendant in any criminal trial at first instance is restricted under Article 2 ... to a power to award costs only in the event of conviction." At paragraph 25 she said:- "I do not consider that these powers to award costs are such as to hinder access to the courts in a manner that is unjustified or violates Article 6 of the Convention. The powers to award costs in criminal cases strike a reasonable balance between the interests of the prosecution and the defence and serve only to protect the right of the State to seek some payment from a defendant after conviction ..." 31. In our judgment, in deciding what is "just and reasonable", the court is entitled to take into account all the circumstances of the case, including the strength of the case against him and his knowledge of its strength at the time he pleaded not guilty, *R v Yoxall*
- (1973) 57 Cr. App. R. 263. In *R v Mountain & Kilminster*
- (1979) 68 Cr. App. R. 41 the Court of Appeal of England & Wales applied *Yoxall*. Lawton L. J., delivering the judgment of the court, said at p.43:- "This Court in the case of *Yoxall* ... invited attention to the fact that when making an order against an accused person to pay the costs of the prosecution the Court is entitled to take into consideration all the circumstances of the case, including the conduct of the defence at trial. In many cases at the trial the accused says, as he is entitled to say and frequently is justified in saying, that

there has been some mistake on the part of the prosecution witnesses; that they have confused themselves in thinking that they saw something which they did not see, that their memories have failed them or that the accused has some explanation for what at first sight seems to be criminal conduct. In that class of case, it may be unfair to make an order that the accused should pay the costs of the prosecution. But there are other kinds of cases which come before the Crown Court where the defence is that everybody except the accused is telling lies and that the prosecution's case is virtually a concocted one. This case comes very near to that category. What these two appellants were saying was that the landlord had prosecuted them when he knew perfectly well that he had agreed what they could have in furniture and, further, that the police officers were telling lies when they said that the appellants had made written admissions. It is in that kind of case, in our judgment, that courts are entitled to make an order that the accused should pay the costs of the prosecution." 32. We accept that it is not, and never has been, the position of the Attorney General that an award of costs should be regarded as automatic. We also accept the submission of Advocate Steenson, endorsed by Crown Advocate Baker, that the purpose of granting an order in favour of the prosecution for its costs is to compensate the prosecution for the reasonable costs it has incurred in investigating and prosecuting a defendant. We also accept that a court is unlikely to make any order for costs against a defendant unless it is satisfied that he has the means to satisfy it. 33. In the instant case, the prosecution told the appellant on 15 June of its intention to apply for costs. The appellant agreed, or at least did not object to, the application being adjourned. The appellant was invited, but declined, to provide any evidence of his means either before or during the hearing on 25 November. The appellant himself was in the best position to know what his means were but chose not to put any information before the court. The Commissioner knew that the appellant owned a substantial property of some considerable value. No suggestion was made that if sold the net proceeds would not cover the taxed costs of the prosecution even in the event that the cap of £180,000 was reached. The Commissioner was fully entitled to conclude that if an award of costs was appropriate the appellant had the means to meet it. In any event the appellant will be able to challenge, upon taxation, any item which he believes to be unreasonable, either in principle or in amount. Further, on a fair reading of the Commissioner's judgment, he did not find blameworthy conduct on the part of the appellant. The Commissioner made the order on the ground that it was just and reasonable to do so. 34. Advocate Steenson submitted that the appellant's case was not unmeritorious as he was acquitted on two counts and the counts upon which he was convicted were by a majority. As to the acquittals, it is apparent from paragraphs 59 - 68 of the judgment of the Court of Appeal dismissing the application for leave to appeal against conviction, that the acquittals were the result of both victims' evidence that no offence had been committed between the dates charged in counts 5 and 9. The fact that the convictions were by a majority is, in our judgment, irrelevant. 35. It was further submitted by Advocate Steenson that the totality of 12 years' imprisonment and an order for costs, even capped at £180,000, was manifestly excessive. 36. In our judgment, the Commissioner was careful to take into account, in deciding whether or not

to make an order for costs, the fact that the appellant was serving a 12 year sentence. As he said, he could make a decision as to costs just as well on 25 November as he could have done on 15 June. The costs order would not have affected the length of the prison sentence, for the court would start with the sentence of imprisonment and then look to see if the costs order was justified. 37. Finally, although Advocate Steenson did not submit to us during the hearing that the Commissioner did not take into account, adequately or at all, that the sale of the property would punish the appellant's family more than the appellant himself, such a contention is implicit in his written contentions. The Commissioner, we are satisfied, had well in mind that the farm might have to be sold. But if the appellant was seeking to persuade the court that the sale of the farm would prejudice his family from being adequately re-housed then it was for him to raise the issue that the net proceeds of sale of the farm less a sum of costs up to a maximum of £180,000 would not be sufficient to adequately re-house his family. He did not do so. The court was therefore entitled to conclude that the interests of the appellant's family would not be prejudiced by the sale of the farm. 38. For these reasons the appeal is dismissed. Authorities Michel v A. G.

[2009] JCA 099 . R v Hayden [1975] 1 WLR 852. Costs in Criminal Cases (Jersey) Law 1961. Court of Appeal (Jersey) Law 1961. R v Hayden [1975] 1 WLR 852. Royal Court (Jersey) Law 1948. R v Annesley (1976) 62 Cr. App. R. 113. Self v A. G.

[2010] JCA 061 . G v G (Minors: Custody Appeal)

(1985) 1 WLR 647 . Michel and Gallichan v A. G .

[2007] JCA 009 . Bhojwani v AG

[2011] JCA 035 . R v Northallerton Magistrate's Court ex parte Dove [2000] 1 Cr. App. R (S) 136. Syvret v A. G .

[2009] JCA 181 . R v Yoxall (1973) 57 Cr. App. R. 263. R v Mountain & Kilminster (1979) 68 Cr. App. R. 41. Page Last Updated: 07 Feb 2017 BAILII: Copyright Policy | Disclaimers | Privacy Policy | Feedback | Donate to BAILII

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