

**Judgment 37/2007**

**Hanna de Garis – Royal Court (Criminal Appeal No 14 of 2007) – 1 October 2007**

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**Criminal Appeal from the Magistrate’s Court – breach of the peace and resisting police – assault with a glass causing facial injury – appeal from sentence of eight months’ youth detention for the assault – personal circumstances properly taken into account – appeal dismissed**

**IN THE ROYAL COURT OF THE ISLAND OF GUERNSEY**

The 1<sup>st</sup> day of October, 2007 before Richard John Collas, Esquire, Deputy Bailiff, present: David Charles Lowe, OBE, Derek Martin Le Page, Stephen Edward Francis Le Poidevin and Keith Bichard, OBE, Esquires, Reverend Peter Gerald Lane, Michael Henry De La Mare, Esquire, Susan Mowbray, David Osmond Le Conte and John Ferguson, Esquires, Jurats.

No.14 of 2007

In the action of THE LAW OFFICERS OF THE CROWN against HANNA DE GARIS (“the Appellant”) to pursue the appeal of which the said De Garis gave notice against the sentence imposed by the Magistrate’s Court on the 24th day of August, 2007 in the terms attached hereto;

THE COURT, having heard Advocate P. Lockwood for the Appellant and Advocate C. Dunford for the Crown DISMISSED the appeal.

S M SIMMONDS  
Her Majesty’s Deputy Greffier

**In the Royal Court of Guernsey**

**On Appeal from the Magistrate's Court**

**Law Officers of the Crown**

**-v-**

**Hanna DE GARIS**

**Before Richard John Collas, Deputy Bailiff**

**Jurats: Lowe, Le Page, Le Poidevin, Bichard, Lane, De La Mare, Mowbray,  
Le Conte, Ferguson**

**Appeal Against Sentence Heard 1<sup>st</sup> October 2007**

Advocate for the Appellant: P Lockwood

Advocate for the Respondent: C G Dunford

1. Hannah De Garis, you pleaded guilty in the Magistrate's Court to three charges. The first two charges related to an incident that occurred on the 9<sup>th</sup> April this year at the Hotel de Beauvoir when you were charged first with unlawfully conducting yourself in a manner likely to cause a breach of the peace and secondly, resisting two Police Officers in the execution of their duty. The third charge was that on 1<sup>st</sup> June 2007 at the Happy Landings, you assaulted Ian Kisby. A fourth charge to which you pleaded not guilty was formally dismissed.
2. You were 19 when you appeared in the Magistrate's Court for sentencing on 24<sup>th</sup> August and you were 18 years old when you committed the offences.
3. The Assistant-Magistrate sentenced you on the first charge to undergo Youth Detention for a period of 2 weeks and on the second charge for a period of 4 weeks, running concurrently. On the third charge, you were sentenced to undergo 8 months Youth Detention to run concurrently with the other two sentences. So the total of the sentence you are serving is 8 months Youth Detention.
4. You have appealed against the third of those sentences only, although we have to take account of the total length of the sentence. You rely upon a single ground of Appeal, namely that in all the circumstances the sentence was manifestly excessive.
5. We have carefully considered the transcript of the proceedings in the Magistrate's Court, the Psychiatric Report and the Probation Report prepared for that hearing. We have also considered the report from Dr McCarthy which has been presented to us this afternoon and we have taken account of all that your Advocate has said on your behalf and I am sure that he has said all that can be said.

6. The facts of the offences, very briefly, are that at the time of the incident at the Hotel de Beauvoir you were staying there with your boyfriend. You described a domestic incident that had started as a 'play fight', but got out of hand causing disturbance to the other guests at the hotel. When the Police arrived, you were abusive towards them and struggled violently with them.
7. The more serious charge relates to the incident at the Happy Landings. You and your boyfriend had been ejected from the premises, allegedly for smoking. The explanation of the offence given by your Advocate to the Magistrate's Court was that you were outside the pub when you saw your boyfriend being set-upon by a group of adult males. Someone threw a bottle at your boyfriend which struck you instead and your instinctive reaction was to throw the glass that you were still holding in your hand and that hit the complainant close to the left eye causing a cut a number of millimetres away from the eye, which required three stitches.
8. You may have been provoked, but the nature of your reaction was disproportionate to any threat that you may have suffered and so could not be legally justified as self defence.
9. You have appeared in the Juvenile and Magistrate's Courts of this Island on a number of occasions in recent years for a variety of offences, including in particular several for assault on Police Officers and you had only recently returned from the UK after completing an off-Island placement arranged by the Community Drug and Alcohol Team.
10. The Psychiatric Report presented to the Assistant-Magistrate, described a history of heavy and very early use of illicit substances which had developed into a major addiction problem for you. The Psychiatrist considered that your drug use was so severe it was endangering your physical health and that if it continued unchecked, the prognosis he said looked very bleak. He considered that you needed to straighten up your life and to seek help. He recommended you receive a sentence that would enable you to be treated outside the Prison. In their report the Probation Service expressed concerns that you would not fully engage with the Probation service in terms of supervision.
11. In sentencing you, the Assistant-Magistrate said he had taken careful note of the contents of the Probation and Psychiatric Reports and all that they said about your history and their suggestions for going forward. He gave you credit for your guilty plea and for your age. He also sentenced you on the factual basis advanced by your Advocate. In view of your age, he had to take account of the sentencing procedures that applied to young offenders and he concluded that a non-custodial sentence could not be justified, but that your bad record showed you were unable or unwilling to respond to non-custodial sentences and also that a custodial sentence was necessary for the protection of the public.
12. We have a lot of sympathy for your personal circumstances and we have very carefully considered this Appeal. We are very much concerned for your

welfare and we have considered what the alternative might be if your sentence was suspended. We note the medical care you are receiving whilst you are serving Youth Detention and we strongly urge you to co-operate with all those who are trying to help you and will continue to do so when you are released. We have after agonising consideration, reached the conclusion that the sentence is neither wrong in principle, nor is it manifestly excessive and the Appeal is therefore dismissed.