

Judgment 26/2003

**Arron Help V
Law Officers of the Crown
Court of Appeal
(Criminal Appeal 298)
8th July, 2003**

**Firearms – unlawful possession and transfer – appeal from suspended sentence of youth detention
– whether custodial sentence appropriate.**

IN THE COURT OF APPEAL OF GUERNSEY

Criminal Division

The 8th day of July, 2003 before Christopher Simon Courtenay Stephenson Clarke, Q.C., Presiding,
David Arthur John Vaughan, C.B.E., Q. C., and Patrick Stewart Hodge, Q. C.

THE LAW OFFICERS OF THE CROWN

V.

ARRON HELP

Appellant

In the appeal of the Appellant from
the sentences imposed on him by the Royal Court on 28th January, 2003;

THE COURT, having heard Advocates P. T. R. Ferbrache and G. D. McKerrell for the Appellant and the Crown respectively, thereon, GAVE JUDGMENT in the terms attached hereto, and ALLOWED the appeal to the extent that the sentences of six months' Youth Detention concurrent, suspended for two years, imposed on each of the Fifth and Sixth Counts, be set aside and replaced by fines of £250 on each Count (a total of £500, with the alternative of 25 days' imprisonment) and ordered that the fines be paid at £50 each week, the first payment to be made on 15th July, 2003.

K. H. TOUGH
Registrar of the Court of Appeal

MONDAY 7TH JULY 2003

THE COURT OF APPEAL OF GUERNSEY

Before

Christopher Simon Courtenay Stephenson Clarke, Esq., QC Presiding
David Arthur John Vaughan, Esq., CBE, QC
Patrick Hodge, Esq., QC

ARRON HELP
(Criminal Appeal No. 298)

Judgment delivered by David Arthur John Vaughan, Esq., CBE, QC

1. On the 28th January, 2003, Arron Help, then aged 20, appeared before the Royal Court. He was charged together with James Jamouneau, then aged 18, with various offences relating to firearms. Arron Help pleaded guilty to two offences in relation to being in possession of a firearm (a .22 rifle) without holding a firearms certificate then in force and also for transferring that .22 rifle to another person who did not produce a firearms certificate authorising him to acquire the firearm or showing he was entitled to acquire a firearm without holding a certificate. In respect of the two offences to which he pleaded guilty, Arron Help was sentenced to undergo a period of six months youth detention to run concurrently, which was to be suspended for two years. He had previously been sentenced to eight months youth detention at the Royal Court on the 11th December, 2001, for two offences of supplying Class A drugs.

2. The facts which led to Arron Help being in possession of the .22 rifle are somewhat complicated. James Jamouneau lives at a farm at La Ramée, St. Peter Port. The house is divided into two with part of the house being occupied by his grandmother, and it was in that part that he lived. The other part was occupied by his uncle. In the loft of his grandmother's part of the house there was a gun cupboard where

Mr. Robin Jamouneau, uncle of James Jamouneau, kept a .410 shotgun and a .22 rifle, whilst Roger Jamouneau, James' father, kept a 12 bore shotgun there.

3. It would seem that whilst his grandmother was away on holiday in about August 2002 James Jamouneau had opened the gun cupboard and had taken the guns in question. The theft was discovered on the 11th October, 2002, and reported to the Police. James Jamouneau in the first of his interviews denied all knowledge or involvement in the theft. However he eventually admitted his full part in the theft. With regard to the two shotguns he said that he had hidden one in a hedge nearby, and that gun was subsequently recovered from the hedge. He said that he had sold the other shotgun for £100 to help pay off a drug debt. That shotgun was also subsequently discovered in a bottle bank. With regard to the .22 rifle he said that he had swapped it for a knife. Eventually he named Arron Help as a person who had received the rifle but said that he knew that he had passed it on to another person. James Jamouneau, who had no previous convictions, was sentenced for a total of twelve months youth detention in respect of the theft and a period of six months youth detention with respect of the offences relating to possession of the other firearms without firearms certificates, all sentences to run consecutively with that for the theft, and concurrently with each other, but the said sentences were suspended for a period of two years.

4. Before the Police could take any action with regard to Arron Help, he, on the 20th October, voluntarily attended the Police Station with the rifle in question. He said that as James Jamouneau had been arrested he thought that he should hand the rifle in. In an interview he said that he had come into possession of the rifle some two months before and that he had swapped a knife for the rifle. He admitted he did not have a firearms certificate. He said that almost immediately he gave the rifle to one of his family, who he thought had a firearms certificate, who then gave it to one of their friends. He said that he had only had the rifle in his actual possession for some two hours.

5. When Arron Help appeared before the Royal Court for sentence, having pleaded guilty, the Bailiff, in his sentencing remarks said that this was the first time in recent years that the Royal Court had to consider sentencing for firearms offences. He went on to say

"We note the prevalence in England of firearms on the drugs scene and Help has a relatively recent drugs related conviction in the Court and we cannot but notice the fact that the drugs activity in this Island has increased considerably in recent years. We agree with the view of the

English Court of Appeal that save for minor infringements which are properly dealt with summarily, offences against the provisions of the firearms legislation will almost invariably merit terms of custody even on a plea of guilty and in the case of an offender with no previous record."

In this application for leave to appeal, it is contended that in the particular circumstances of this case it was not possible to say either that a custodial sentence was necessary for the protection of the public or the prevention of crime or that the offence was so serious that a non-custodial sentence could not be justified, which are the relevant tests by virtue of the Criminal Justice (Youth Detention) (Bailiwick of Guernsey) Law, 1990. Whilst it was accepted that in almost all cases a custodial sentence would be appropriate, in the present case, it was not so. It was emphasised that in this particular case there was no connection between the possession of the rifle and the drug offence which Arron Help had committed in the past, that he was not connected with the original theft in any way, that he had no ammunition for the gun and there was a very short time of possession. Moreover it was emphasised that he of his own accord, albeit when he heard of the arrest of James Jamouneau, voluntarily collected the rifle from the person who had it in his possession and took it to the Police. It was also said that, had it not been for the fact that Jamouneau had originally stolen the firearms and that he was jointly charged with him, he would never in fact have appeared before the Royal Court and the offence would almost certainly have been dealt with summarily. It was also said that contrary to what was said in the sentencing remarks, notwithstanding the fact that he had the previous conviction for supplying Class A drugs, there was nothing in this case to suggest that the possession of the rifle was any way connected with drugs.

6. We agree with those submissions. We do not consider, in the very exceptional circumstances of this case, that it was appropriate to impose a custodial sentence and therefore accordingly we grant leave to appeal and allow the appeal to this extent and substitute for the custodial sentence a fine of £500, £250 on each count.

Paid at £50 per week.

First payment on 15th July, 2003.

In default of payment 25 days imprisonment.