

**ROYAL COURT
FULL COURT**

22 July 2019

**Before: Judge J R Finch OBE, Judge of the Royal Court and:
Stephen Murray Jones OBE, Claire Helen Le Pelley, Terry John Ferbrache,
David James Mortimer, Alan Stevenson Boyle, Peter Francis Gill,
David John Robilliard, Marilyn Jasmine King, David Percy Langley Hodgetts LVO,
Jurats.**

THE LAW OFFICERS OF THE CROWN

- v -

Ian Kerry LEWELL

Crown Advocate F M Russell appeared for the Crown

Advocate L C Roffey appeared for the Defendant

JUDGE OF THE ROYAL COURT:

Background

You are a serving prisoner and have pleaded guilty to two counts of assault. One on the Prison Governor and the other on another prisoner. These are common law offences so the maximum sentence is life. You appeared before the Magistrate's Court which declined jurisdiction, understandably, and have throughout indicated 'guilty' pleas. You have been serving another sentence whilst this case was proceeding through the system.

You are now a 46 year old local man with a very long list of similar offences including recent custodial sentences incurred whilst you were at the Prison, involving an assault and the activation of suspended sentences. Unfortunately as we say, your record is a long one, including spells in England from a young age and three different psychiatric hospitals in England, one of which was Broadmoor. You are subject to Multi-Agency Public Protection Arrangements or MAPPA. We need not go over any further details – everything has been comprehensively set out in the very helpful Probation report. You are under a diagnosis of a Mixed Personality Disorder and find it difficult to control your anger. This is the context of the situation in which this case is placed.

Sentencing Considerations

In Guernsey, the offences against persons jump from assault to GBH – unlike England there is no Actual Bodily Harm or ABH offence. That means an assault can range from the trivial to the more serious - approaching GBH, which makes it all the more important to carefully sentence on the individual facts of each case. We are bound to note that the injuries in Count 1 were "grazing to the side of the head and forehead" and also the relevant parts of the Victim Impact Statement, plus the negative effect the assault has had. Several blows were aimed at the victim and at least two (we were told) connected. In respect of Count 2, we have a head-butt to the jaw. We always view head-butts or 'nutting' very seriously, just as we do assaults with weapons.

The victim in Count 1 has to be treated as a member of the front-line services in this Island, whose job like Police officers and others, in similar demanding occupations, requires special protection and we reflect this and all the other circumstances in our sentencing. In respect of Count 1 you were agitated and on Count 2 you were, it seems, understandably 'wound-up' but the response was wholly disproportionate. These were two separate assaults on different days and whilst considering totality, they should be dealt with consecutively. Our starting figures are enhanced because of your bad similar record. We must also note that following a merciful decision of this Court on a sentence appeal in February 2018, you re-offended. The Probation report again, was very helpful on all of this.

Taking all of these factors into consideration, we start at 30 months' for Count 1 and 6 months' for Count 2.

Mitigation

Your 'guilty' pleas in view of the evidence were inevitable, but we are encouraged to give some credit for them. We have carefully considered what your Advocate has said to us and as stated, the excellent detailed Probation report. We must consider the nature of the offences in the light of your record and we must also consider your recent offending. All the mitigation because of the points we have set out is limited, so in respect of Count 1 it will be below one-third, but we give one-third on Count 2.

Sentence

Count 1, as stated, relates to an official acting in the course of his duties and such offences have got to be punished. Any violence in these circumstances is highly undesirable. We have, as have other courts, been fair to you over the years and you have had chances, but we have got to deal with this one realistically. Our sentencing must always be proportionate to all the circumstances of the offending so:

- on Count 1, the sentence is 2 years and 2 months' imprisonment and
- on Count 2, 4 months' imprisonment consecutive
- Total: 2½ years (30 months) with effect from the conclusion of any sentences you are presently serving i.e. in addition to them.
- Compulsory Supervision after release for one-quarter of the total sentence and we don't think compensation, in this case, by order of this case is appropriate so we make no Order.

Judge J R Finch OBE
Judge of the Royal Court

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