

Unlawful and malicious inflicting of grievous bodily harm.

[2021]GRC020

**ROYAL COURT  
FULL COURT**

**4 May 2021**

**Before: Richard James McMahon, Esq., Bailiff and Jurats:  
Claire Helen Le Pelley, Terry John Ferbrache,  
David James Mortimer, Joanne Marie Wyatt, Peter Francis Gill, Marilyn Jasmine King,  
Paul Martin Burnard, Felicity Jane Quevâtre-Malcic, Heather Reed.**

**THE LAW OFFICERS OF THE CROWN**

- v -

**JAKE DAVID DESPERQUES**

**(D.O.B. 15.11.2001)**

**Advocate J D McVeigh appeared for the Crown  
Advocate S E Steel appeared for the Defendant**

**BAILIFF:**

**Background**

Jake Desperques, you appear this afternoon to be sentenced in respect of a single Count of unlawfully and maliciously inflicting grievous bodily harm, to which you pleaded guilty on 8 April 2021.

Sentence for this offence is at large, meaning that the maximum penalty available is life imprisonment. In practice, although it is not obliged to do so, this Court generally treats the maximum sentence for inflicting grievous bodily harm as being five years, reserving higher sentences for more serious offences where intention is proved.

You are a local man, now aged 19 but still 18 when you committed this offence. You left school without qualifications and have spent your short working life at a fishmonger's and as a fisherman. You are currently unemployed and in receipt of benefits because you lost your latest job due to your alcohol use.

On 4 September 2020, you had been out at sea for 13 hours. That evening, still in your work clothes, you went to one public house and then on to the Mariners' Inn. You consumed a considerable amount of cider that evening. We have seen some of what happened on the CCTV shown to us. You did not know your victim, but he seemed to be spoiling for a fight. Being annoyed at that behaviour, you then became embroiled in a fight with him. This was despite the attempts of others to restrain you from involving yourself. We accept that you were determined to take matters into your own hands. You smashed your victim's head into the post-box outside the pub, using some force, several times, before fighting continued on the ground until you were eventually pulled off. Your victim sustained a 5 cm full thickness laceration on his forehead.

You are a man of previous good character. You have been on conditional bail throughout.

### **Sentencing considerations**

Cases of violence like this are regarded by the Court in the light of Guernsey considerations, where deterrence remains a significant factor. Some may feel this produces a severe sentencing approach, but it is one which has been endorsed by the Court of Appeal. We take into account any aggravating factors relating to the offence and any personal mitigating factors. We derive useful guidance from what the Sentencing Guidelines Council of England and Wales has included in its Assault Definitive Guideline (for the Crown Court), whilst also recognising that Guideline does not bind this Court.

There are a number of factors that we consider aggravate this offence. It was committed under the influence of alcohol. Indeed, you were so drunk that you appear to have been completely disinhibited and, by your own concession, would have continued the attack if you had not been dragged off, where the consequences could have been even more severe. We regard the use of the post-box as comparable to using the equivalent of a weapon. This was more than an attack confined to using fists and might be as bad, if not worse, than headbutting. A full thickness laceration is a significant injury resulting from what was a fairly sustained attack.

Bearing these factors in mind, we are satisfied that the custody threshold has indeed been passed. This was a nasty and vicious attack, which we consider to be towards the higher end of the seriousness of offences of GBH, and so take a starting point of 3 years' imprisonment.

### **Mitigation**

We have listened carefully to everything that has been said about you and on your behalf by Advocate Steel. We have also had the benefit of the realistic Probation Report, noting particularly that you are assessed as posing a medium risk of further general re-offending and that any unchecked misuse of alcohol means you have the potential to cause further serious harm.

In your favour, we take into account that you pleaded guilty at the earliest opportunity and, however inevitable that plea was, we will afford you full credit for it.

You are also a young man of previous good character. Unfortunately, you have shown no indication that this incident has been a lesson for you. There has been a chance for you to modify your attitude to alcohol, but it seems to us that you have chosen not to do so, which is troubling. Having a substantial amount to drink last night is indicative of our concerns. We are also slightly surprised that you have not expressed any remorse for what you did to your victim.

### **Sentence**

We wish to make it abundantly clear to you that violence in this Bailiwick will not be tolerated by this Court. It is apparent to us that you use alcohol inappropriately and to excess. That is your choice and where alcohol breeds violence in the way it did last September, you must be prepared to face the consequences of the rage descending, causing you to lose control. This was a sickening incident that must have been frightening for those present and will have lasting effects on your victim. You had the opportunity to walk away from a confrontation but instead launched yourself at your victim, determined to inflict some injury on him as retribution for his behaviour.

Your unwillingness to indicate any real desire to address what is clearly a serious problem for you, has rather tied our hands. This offence is so serious that we find that a non-custodial sentence cannot be justified. Further, we are also satisfied that such a sentence is necessary for the protection of the public and to prevent you from reacting in a similar fashion in the short-term and thereby preventing crime. These considerations arise because of your age under the Criminal Justice (Youth Detention) (Bailiwick

of Guernsey) Law, 1990. We have also borne in mind that a spell in custody may well be in your best interests because it offers the opportunity for the type of intensive work to which the Probation Report refers and forces upon you a period of abstinence.

You are, therefore, sentenced to 18 months' youth detention, running from today.

In accordance with section 1 of the Criminal Justice (Supervision of Offenders) (Bailiwick of Guernsey) Law, 2004, upon release (or completion of any Parole period if applicable), you will be subject to supervision by the Probation Service for a period equal to one quarter of the total sentence or the period you would have served had you not received remission, whichever is less. If you fail to comply with the conditions of the supervision, you will be liable to further custody, a fine, or to both.

### **Compensation**

We have also considered whether it is appropriate to make an order for compensation in favour of your victim. In the circumstances, we have decided that it will be up to him, following your conviction and sentence, to decide whether to bring proceedings to cover his losses and in respect of his injuries, so there will be no compensation order today. It is also less appropriate to make a compensation order when you are going into custody.

**Richard J McMahon**  
**Bailiff**

**4 May 2021**