

Offences of disorderly behaviour contrary to section (c)(ii) of the Summary Offences (Bailiwick of Guernsey) Law, 1982, as amended, and being in breach of Orders previously made by the Court.

[2021]GRC040

**ROYAL COURT
FULL COURT**

5 August 2021

**Before: Richard James McMahon, Esq., Bailiff,
and Jurats:**

**Jonathan Grenfell Hooley,
David James Mortimer, David John Robilliard, Stuart Michael Crisp,
Marilyn Jasmine King, Tina Jane Le Poidevin, Paul Martin Burnard,
Felicity Jane Quevâtre-Malcic and Simon Ernest Bodkin.**

THE LAW OFFICERS OF THE CROWN

- v -

**Jake Paul GALLIENNE
(D.O.B. 11.11.1995)**

**Advocate R J Calderwood appeared for the Crown
Advocate L C Roffey appeared for the Defendant**

BAILIFF:

Background

Jake Gallienne, you were sentenced by this Court on 10 February 2021 to 120 hours under a community service order for an offence of assault, as a direct alternative to 6 months' imprisonment, plus a further 40 hours of community service for possessing a small quantity of cannabis. In addition, an 18 month probation order was made, which was intended to "*provide support to you as you strive to free yourself from excessive alcohol use and substance misuse*".

In the Magistrate's Court on 28 June 2021, you pleaded guilty to two offences of disorderly behaviour committed on 2 May 2021, which are contrary to section 1(c)(ii) of the Summary Offences (Bailiwick of Guernsey) Law, 1982, as amended. Each offence carries a maximum sentence of 3 months' imprisonment, a level 3 fine, being £2,000, or both. Because you are in breach of the orders imposed by this Court on 10 February 2021, the Judge of the Magistrate's Court did not deal with you for those new offences but instead ordered that you appear before this Court, as he was entitled to pursuant to section 9(2)(c) and (3)(b) of the Criminal Justice (Community Service Orders) (Bailiwick of Guernsey) Law, 2006, as amended, and similar powers found in section 12 of the Probation (Bailiwick of Guernsey) Law, 2018, so that we deal with these new offences and decide how to deal with you for breaching the orders made in February.

As we have heard, on 2 May 2021 you came to the attention of the Police first in the early hours of the morning in Town and then following the Cobo Balcony Gig that evening. We

view that second incident more seriously, because you had picked up a half brick and you were agitated and sounding off. On both occasions, it is apparent that you had consumed more alcohol than you should have done and that led to your reaction to being spoken to by the Police being wholly unacceptable, as you now acknowledge.

The offences for which you were dealt with in February, occurred in the early hours of 31 August 2019. Along with your co-defendant, Kalan Millar, you followed two men and you ended up punching Mr Roger, who was on his mobile telephone at the time, having dialled 999, to his right cheek. You ran off, although the Police eventually managed to apprehend you, at which time 0.12 grams of cannabis, accepted to be for personal use, was found in your possession.

You are a local man, now aged 25. You had a previous conviction for assaulting an adult, for which you had been sentenced to 12 months' imprisonment, about which the Court heard in February, and your offending history includes imprisonment for 1 month for disorderly behaviour and for 2 months for resisting a police officer, both originally suspended, but then activated when you were imprisoned for that assault.

For these most recent offences, you have been on unconditional bail throughout.

Sentencing Considerations

Given your record, even if looking only at the latest two disorderly behaviour offences, any Court would be entitled to find that the custody threshold has been passed. Your reaction to the Police on occasions when you really should not seek out confrontation is deplorable. Having been warned about the risks you would be taking if you chose to consume alcohol to excess, it is apparent that they fell on deaf ears. Moreover, having already escaped any immediate consequences flowing from not complying with the request to stop swearing when you had been spoken to in Town, that lesson had no effect by that evening when, again in drink, your reaction shows a somewhat cavalier attitude to dealing with persons in authority. What has been made clear, though, is that this offence relates to arming yourself with a half brick in readiness for any further confrontation, when the sensible thing to have done was to calm down and walk away, especially when this Court had imposed orders on you less than three months previously.

When coupled with the breaches of the orders for the assault in 2019, where the Court explained that it was satisfied that the custody threshold had been passed, for the offending we have to consider this afternoon, it is open to us to choose between the options outlined, namely revoking the orders without further ado, which is unrealistic in your case, or choosing instead to re-sentence you for those two offences originally sentenced in February, where the Court indicated that it had in mind a sentence of 6 months' imprisonment, reduced from the starting point of 10 months in light of the mitigation we took into account in respect of the assault, or we could keep the orders made in place, with or without modification and, in doing so, we could also consider adding a financial penalty, really in respect of the breaches, and in each case then dealing with the two disorderly behaviour offences as well.

Mitigation

The best option for this Court largely depends on the mitigation advanced by Advocate Roffey on your behalf, and our response to what is contained in the helpful Probation Report.

From that report there remains a high likelihood of you re-offending. Indeed, that assessment was also found in the report in February and has proved accurate because you are back here again. It is also still clear that your actions will be adversely affected when you become intoxicated, when anti-social behaviour is increasingly likely.

Looking at the last six months or so, the Court first of all notes that you have completed 55 hours out of the total of 160 hours of community service imposed. That is very roughly one third. We have also noted that your response to being made subject to a probation order has been positive. It would be fair to say that you have not had a faultless few months, but we appreciate that availing yourself of the levels of support the Court had in mind is inevitably going to take some time to produce results.

We will give you full credit for your guilty pleas to the latest two offences. As the Court commented in February, we accept that you have a good work ethic and we recognise that that has continued. Indeed, we have noted the support and understanding afforded to you by your current employer. Further, we do recognise your apparent desire to address the problems that you now appreciate you have, particularly in regard to alcohol consumption.

Sentence

Jake Gallienne, it is a disappointment to the Court that you committed these disorderly behaviour offences so soon after being sentenced here in February. Unless and until you recognise that the Police are only doing their jobs as peace-keepers, which might be easier for you if you were to retain greater control of your reactions by not drinking to excess, you do run a big risk of ending up in trouble. Ultimately, only you can take those steps to avoid putting yourself into a position where you might fall foul of the law. It really is quite simple – turn over a new leaf, avoid alcohol, particularly binge-drinking vast quantities of it, and have some respect for those in authority.

Having given you a chance in February, we have had to decide whether you still deserve that chance today. We have decided that we should and will broadly follow the recommendations found in the Probation Report.

So, in respect of the community service orders imposed for the assault and for the cannabis possession, we will leave those in place unmodified, so you must complete the rest of the 160 hours in total. In respect of the probation order, we will leave that as an 18-month order running from 10 February 2021, which is subject to the same conditions as originally imposed, but we will add the proposed additional condition to it, for what is essentially a weekend curfew for the next 3 months. We do that because these new offences were committed at the weekend and this will operate as a further disincentive to you to consume alcohol on those evenings. In particular, we note that one of the purposes of a probation order is the protection of the public (section 4(1)(b) of the Probation Law) and so we impose this condition to support that purpose as being for the effective management and performance of the overall order. The wording of that additional condition is:

“For a period of three months from tomorrow, 6 August 2021, you must confine yourself to an address approved by your Supervising Officer between the hours of 9 pm and 7 am on each Friday, Saturday and Sunday evening, unless otherwise authorised by your Supervising Officer and you must present yourself to the door of those premises at any

time within those hours if requested to do so by a Police Officer or Probation Officer who is carrying out checks to confirm your ongoing compliance with this curfew.”

We have, though, also decided to mark the breaches of the orders that were imposed in February by imposing a fine, which will be of £600, and in default of payment, there will be a prison term of 30 days to be served. We have noted that you have £150 payable today, so we will take that today and we are going to direct that the balance is payable within the next two months, ie, the additional £450 must be paid by 5 October 2021.

Turning to the two new disorderly behaviour offences, we have decided that the most appropriate way of dealing with them is to add some more hours to your overall community service order. We are satisfied that the seriousness of these offences, particularly the evening incident at Cobo, is sufficiently serious to impose a community service order for those offences, and so we will order you to perform 40 hours of unpaid work under such an order. That is 40 hours for each of the two offences, but concurrent to each other, but those 40 hours are to be consecutive to the 160 hours order that was imposed back in February and remains in place. In other words, there is now a total of 200 hours to complete, of which 55 have already been completed under those orders.

The Court notes that you have again indicated that you understand the nature and effect of a community service order, the power of the Court to review that order and the consequences that may follow if you fail to comply with any of the requirements of the order, or if, as you are well aware from today, you are convicted of a further offence while the order is in force.

These orders are imposed as a direct alternative to a sentence of imprisonment and the alternative sentence that the Court was considering passing was one of 1 month's imprisonment on each offence, concurrent to each other, but consecutive to the 6 months that are in place in respect of the assault offence that was dealt with in February.

Richard J McMahon
Bailiff

5 August 2021