

Breach of Community Service Order. Sentencing transferred to the Royal Court under section 9(2)(c) of the Criminal Justice Community Service Orders, (Bailiwick of Guernsey) Law, 2006 to consider the breach and five new offences: threatening behaviour under section 4(10) of the Public Order (Bailiwick of Guernsey) Law 2006, sexual assault under section 13 of the Sexual Offences (Bailiwick of Guernsey) Law, 2013, resisting arrest under section 1(2) of the Offences Against Police Officers (Bailiwick of Guernsey) Law, 1963, indecent behaviour under section 1(c)(ii) of the Summary Offences (Bailiwick of Guernsey) Law, 1992, and assault.

[2024]GRC015

Please note the 2013 Law applies to this case and there must not be anything reported in the media or by way of social media, which might identify the adult complainant in this matter who is entitled to lifelong anonymity.

**ROYAL COURT
FULL COURT**

11th January 2024

**Before: Catherine Maureen Fooks, Judge of the Royal Court and Jurats:
Steven John Morris, Joanne Marie Wyatt,
David John Robilliard, Marilyn Jasmine King, Tina Jane Le Poidevin
Simon Ernest Bodkin and Jillian Clark.**

THE LAW OFFICERS OF THE CROWN

- v -

CALUM EDWARD STEER

**Advocate P F Cobb appeared for the Crown
Advocate S J Maindonald appeared for the Defendant**

JUDGE OF THE ROYAL COURT:

Background

Mr Steer, on 26th January 2023, you were sentenced by this Court to 240 hours Community Service as a direct alternative to 18 months' custody and a 1 year Probation Order for being concerned in the supplying of cannabis and on the same day you were also sentenced by the Magistrate's Court to 1 month's imprisonment, suspended for 2 years for a public order offence. On 6th November 2023, you entered guilty pleas to five offences in the Magistrate's Court as set out below, which were committed on 17th August 2023, placing you in breach of the three sentences above.

On 30th November 2023, the learned Magistrate declined to deal with the breach of the Royal Court's Community Service Order and instead made an Order, under section 9(2)(c) of the Criminal Justice Community Service Orders, (Bailiwick of Guernsey) Law, 2006, that you should be sent to this Court for that breach and, as a consequence, he was required, by section 9(3)(b) of the same Law, to order that this Court sentence you for the five offences which have put you in breach, albeit that this Court's powers are limited to the relevant powers of the Magistrate's Court by section 10(3) of the same Law. This Court is also required by section 10(4) to deal with your breach of the Magistrate's Court suspended sentence. This has the advantage that one Court can deal with all matters and apply the

totality principle in so doing. The sentencing powers in terms of imprisonment of the Magistrate's Court Law 2008 give the Magistrate's Court power to sentence you for up to 2 years on any single offence, but up to 3 years in total for multiple offences, and that does not include any sentence for the breach of the Magistrate's Court suspended sentence and of course, it would not include any sentence of this Court under its own powers for the breach of its Community Service Order and Probation Order.

The five new offences with their maximum penalties in the Magistrate's Court are as follows:

1. Threatening behaviour under section 4(10) of the Public Order (Bailiwick of Guernsey) Law 2006 – maximum penalty of 12 months and that is summary only.
2. Sexual assault under section 13 of the Sexual Offences (Bailiwick of Guernsey) Law, 2013 – maximum penalty of 2 years.
3. Resisting arrest under section 1(2) of the Offences Against Police Officers (Bailiwick of Guernsey) Law, 1963 – maximum penalty of 3 months.
4. Indecent behaviour under section 1(c)(ii) of the Summary Offences (Bailiwick of Guernsey) Law, 1992 – maximum penalty of 3 months.
5. Assault – maximum penalty in accordance with the Magistrate's Court powers – 2 years for a single offence.

The facts of the new offences have been fully set out by the prosecuting Advocate. In a very brief summary: around 10.30 pm on 17th August in the beer tent at the West Show, you approached and stopped in front of a 14 year old female and stared at her. You made an indecent gesture (charge 4) and she felt very uncomfortable and moved away from you. She later noticed that you had approached a group of younger boys and they looked uncomfortable so she went to help to get them away from you. You pushed her arm and you pushed her in the chest (charge 5). She got the boys away from you. Twice, you approached her and her friend, making comments and the second comment particularly upset her young friend.

You later approached an adult female and stood staring at her – you appeared to be drunk. She told you to “go away” and although others were between you and her, you sexually assaulted that female by placing your head on her chest and moving it between her breasts. She screamed for you to “get off”. You then forced her to the ground and, even though she was being pulled away by friends, you touched her body with your hands and face and held on to her, looking up her skirt (charge 2).

You were restrained by a friend of the female and then a security guard who was assisted by a member of the public. That member of the public continued to assist when the Police were trying to restrain you and, in the course of that you attempted to bite him on the leg (charge 1). You resisted arrest over a long period by struggling, falling to the ground and kicking out at Officers, shouting, swearing and threatening them and spitting at them (charge 3). You also injured yourself in the van to the extent that you were “bleeding and spitting blood”.

At interview you exercised your right to silence.

We have read the Victim Impact Statement from the adult female, whose confidence and independence have been impacted by your offending.

Despite being only 23 years old, you have a large number of previous convictions, notably a number for alcohol related, violent or disorderly behaviour, and assaulting or resisting Police and in respect of which you have received various sentences including Community Service Orders, Probation Orders and suspended sentences, which you have breached by further offending. On 23rd July 2020, you received a combined 12-month sentence of Youth Detention to replace the previous Orders. You were released in March 2021, subject to a Youth Detention Supervision Order, but re-offended in May 2021 with an offence of disorderly conduct which was another altercation with Police. Sentencing was deferred to allow you to prove yourself and you received a Community Service Order in June 2021. Whilst completing that Community Service Order in December 2021, you committed the drugs offences and in August 2022, having not long completed the Community Service Order, you committed the

disorderly conduct offence which was an altercation with a female and the Police for which you received, altogether, the sentences in January 2023. Whilst subject to those sentences you have committed the five new offences.

You have been on conditional bail throughout the proceedings.

Sentencing Considerations

Whilst the five new offences were all committed as one sequence, they are not all of the same character and have different victims, so we will, at least initially, look at them individually. We have set some initial starting points and we have built into those starting points the aggravating factors in the individual offences such as: the age of the young victim in the indecency and assault matters; the extent of the duration of the resist arrest, of which we treat the attempted bite as part of the same sequence (this Court has always considered any biting or attempting at biting to be very serious): the spitting and the spitting of blood and we have particularly considered the sexual behaviour in the sexual assault which was in a public place and which was frightening and humiliating. We have set those initial starting points as follows:

- for the sexual assault – 15 months;
- for the indecency – 3 months;
- for the assault – 3 months;
- for the threatening behaviour – 6 months;
- for the resisting arrest – 3 months.

Note that those starting points are, to some extent, limited by the sentencing powers of the Magistrate's Court. We have therefore arrived at an initial combined starting point which totals 30 months.

There is a number of aggravating factors in your case Mr Steer, which relate to all of the offences and we have therefore added to that 30 months, a period of 6 months to cover those general aggravating factors which are as follows:

- Your previous convictions, in particular there are some which relate directly to the offences here, such as public order and resisting arrest.
- The fact that you have committed the offences whilst in breach of the Community Service Order and Suspended Sentence and whilst still completing the Probation Order.
- The use of alcohol which is always an aggravating and not mitigating factor.
- The sustained nature of your persistent unwelcome approaches.
- The fact that there are two separate sexual assaults on two different females.

We have therefore arrived at a revised combined starting point of 36 months.

Mitigation

Plea

We must first consider the impact of your guilty pleas on sentence and generously we afford you full credit for those guilty pleas.

Personal Mitigation

In terms of personal mitigation, the Court has considered carefully the very helpful social enquiry report prepared in respect of you which has given the Court valuable background information, which we have taken fully into account. We have also listened to the sensible and measured submissions of your Advocate and we have read the letters from your mother and yourself.

In reality though, there is very little by way of personal mitigation for you. We note that you are still relatively young. You have recognised that you have let yourself down and are rightly ashamed and embarrassed by your actions. You have expressed your apology to the victims, albeit late.

In terms of risk assessment, you are assessed as having a low likelihood of sexual reoffending as has been pointed out by your Advocate, but we note that the writer of the Social Enquiry Report cannot comment on whether your sexual offending was sexually motivated or not and more assessment is required. You are said to pose a medium likelihood of general reoffending, a serious risk of psychological harm to others through sexual offending and an ongoing risk of physical harm to others, especially the Police, when under the influence of alcohol, all of which we view as serious and take into account. We note that you will be managed by MAPP. We note there is no specific recommendation for an Extended Sentence Licence or Sexual Offences Prevention Order.

There can be no doubt that the custody threshold has been passed and, while we have been asked to consider alternatives to immediate custody, none would be suitable in your case where punishment, deterrence to others and protection of the public are fully engaged. We consider this sustained incident, which encompassed multiple offences with multiple victims, to be very serious. It represents an escalation of your previous offending with alcohol remaining at the root.

Breaches

The new offences committed by you on the 17th August 2023 placed you in breach of the sentences imposed on 26th January. We note that you had completed 161 out of 240 hours of the Community Service Order before it was suspended, when you entered the pleas to the new offences and that you had done those hours well. You are reported to have engaged well with the Probation Order which has almost come to its end but it was not sufficient to prevent you from offending. You have a history of breaching Orders as set out above and you were warned by this Court and the Magistrate's Court of the consequences of breach.

Breach of Probation Order and Community Service Order

The Court's powers in relation to breaches of Probation Order and Community Service Order were set out by the Prosecuting Advocate and I need not set them out in full in these sentencing remarks. In relation to the Probation Order, the Court has decided that the Probation Order should be revoked as it has almost run its course. The Community Service Order will also be revoked and you will be re-sentenced – the starting point for that has to be the 18 months, as that was the direct alternative to the 240 hours.

Breaches of Suspended Sentence

In relation to the breach of Suspended Sentence, the Prosecuting Advocate also read out the powers of the Court in that regard. There is a presumption that the sentence will be activated in full and that is our starting point.

Sentence

Mr Steer, we have listened very carefully to everything that has been said by your Advocate and we have read the letters that you wrote and that your mother wrote. We have read the Probation Report and we have looked at your record and all of the other factors, but at the end of the day, these are very serious matters. Not only are you in breach of sentences that this Court imposed in January 2023, but also the Magistrate's Court sentence imposed in January 2023 and you have committed five separate offences so you have to go to prison today and our decision is that you will go to prison for 2 years and 8 months.

I just want to say a few words to you and remind you that, when I delivered the sentencing remarks of the Court in January 2023, I told you that, at that time, you were showing some signs of taking responsibility for your actions and maturity and you were taking steps towards a better life. I told you

it would be your one and only chance and it was in your hands. When we gathered afterwards and I sat as a Magistrate, I told you that you were walking out of the Courtroom that day in circumstances which you otherwise might not be and I told you that it would be your last chance. Here we are. Really there is not a lot to say because 'only chance' and 'last chance' have to mean that. You have really blown it because, not only have you re-offended, but very quickly, within 7 months and with five separate offences, now including sexual offences and really shocking and obnoxious behaviour all round, both towards the females and the member of the public and the Police, so there really is no alternative today. The only thing that will stop you from offending is prison and the Island is entitled to be protected from your criminal activity. That said, it is said that you have made some progress under the Probation Order and you can carry on with that work in custody and that work will carry on in custody. I did say it last time, and I will say it again, that your future is in your hands.

In coming to the final sentences and dealing with the breaches, we have taken into account the totality principle. Taking into account everything that has been said in applying the appropriate discounts and applying the totality principle, the individual sentences will be as follows:

- Charge 1, threatening behaviour – 3 months.
- Charge 2, sexual assault on the adult female – 12 months.
- Charge 3, resisting arrest – 3 months.
- Charge 4, indecent behaviour – 2 months.
- Charge 5, assault – 2 months.

This makes a total of 22 months' immediate custody.

- In relation to the breach of the Community Service Order, the Order is revoked and it is replaced with an immediate custodial sentence of 9 months and it is there that we have taken account of the totality principle to the greatest extent.
- In relation to the Magistrate's Court sentence, that will be activated in full.

Both of those sentences will be consecutive to the 22 months, so you have: 22 months, 9 months and 1 month which total 2 years and 8 months.

Supervision

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 the shorter. If you fail to comply with the conditions of the supervision you will be liable to further imprisonment, a fine or both.

Notification

As you are aware, because you have been convicted of relevant offences under the Criminal Justice (Sex Offenders and Miscellaneous Provisions) (Bailiwick of Guernsey) Law 2013, you are subject to Notification Requirements and we follow the recommendation of the Probation Officer which is not opposed that the Notification Period should be 7 years, which runs from the date of those pleas which was the 6th November 2023. This period is a precaution against any risk you may pose and can be further extended. You will be given a written Notice setting out all the requirements of being a Notifier but in summary they are:

1. You should by now have provided the Police with your details as required by Law and explained to you when you were convicted.
2. Once released you must notify the Police of any change of name or home address, at least 24 hours in advance of the change occurring, or within 24 hours if you have no prior knowledge of the change occurring.
3. Once released, you must notify the Police of any address where you reside or stay for 7 days or longer, this means 7 days at a time or a total of 7 days in any 12 month period.

4. You must notify the Police of your details every 12 months on the anniversary of your initial notification, even if there is no change.
5. Once released, you must notify the Police at least 7 days in advance of any plans to travel abroad.

So finally, and in summary:

- Total term of imprisonment from today – 2 years and 8 months.
- Notification of 7 years.

Catherine Maureen Fooks
Judge of the Royal Court

11th January, 2024