

**ROYAL COURT
FULL COURT**

22nd September 2023

**Before: Catherine Maureen Fooks, Judge of the Royal Court and Jurats:
Stephen Murray Jones OBE, David John Robilliard, Marilyn Jasmine King,
Tina Jane Le Poidevin, Paul Martin Burnard, Felicity Jane Quevâtre,
Heather Reed, and Richard Jeremy Wallen James**

THE LAW OFFICERS OF THE CROWN

- v -

**MATTHEW BAMFORD
and
STEVEN HATTON
and
SIMON McCARTHY
and
RENE OZARD
And
BILLY TRUFFITT**

Advocate S G Watson appeared for the Crown

Advocate S E Steel appeared for the First Defendant (MB)

Advocate C A Tee appeared for the Second Defendant (SH)

Advocate C J Green appeared for the Third Defendant (SMcC)

Advocate L C Roffey appeared for the Fourth Defendant (RO)

Advocate S Mallett appeared for the Fifth Defendant (BT)

JUDGE OF THE ROYAL COURT:

Background

Gentlemen, you appear to be sentenced on an Indictment containing three Counts. Messrs **Hatton, McCarthy, Ozard** and **Truffitt**, you have all pleaded guilty to the offence of Violent Disorder under section 2 of the Public Order (Bailiwick of Guernsey) Law, 2006, the maximum penalty for which is 5

years' imprisonment. **Mr Bamford**, you have pleaded guilty to two assaults on two different victims: Mr Morl inside the Harbour Lights and your co-defendant, Mr Hatton, outside the Harbour Lights. Assault is a "Common Law" offence with no maximum penalty.

All offences arise out of a large scale fight which occurred in the Harbour Lights pub and spilled out into the South Esplanade on the late afternoon of 16th December 2022. The person who called the Police rightly described it as 'a massive fight'.

The facts have been set out in detail in the Prosecution Outline, but the real scale of the incident can only be appreciated from watching the CCTV, which the Court has done multiple times, including at half-speed. It is the CCTV which is the evidence. It appears that the fight has at its heart conflict between a group of workers from England (including Mr Hatton), who were unable to travel home, and locals (including the other defendants). There are others who were involved in the incident and one of them is Mr Morl one of the English group, who is the victim of assault.

After some initial altercation and some man-handling, which appears to have been Mr Truffitt trying to get certain persons out of the Harbour Lights, something happens which is not recorded, which escalates the incident into violence. The duration of the fight is somewhere just short of 5 minutes.

Looking at what each defendant does, Mr Bamford, ends up underneath one of the English group and **Mr Hatton** is seen on top of him and hits him three times with his right hand. **Mr Hatton** is pulled to his feet and then stamps with his right foot twice, connecting with Mr Bamford's head once while Mr Bamford is on the ground.

Mr Truffitt is seen grappling with Mr Morl who ends up under the Jukebox. Later, **Mr Truffitt** is seen to have another English male in a headlock. Mr Morl is heard to shout words which ended: "so you think we are an easy touch" when **Mr Truffitt** rushes out and grabs him and takes him to the floor by the pool table. **Mr Truffitt** grabs a pool ball and, whilst standing over Mr Morl, hits him twice with it to the back of the head. **Mr Truffitt** ends up on the pool table and Mr Morl and Mr Bamford are nearby. **Mr Bamford** punches Mr Morl in the face and this can be heard on the CCTV, causing him to stumble backwards. **Mr Truffitt** picks up the cue-ball and throws it with force at Mr Morl but misses. **Mr Truffitt** then throws a bottle, with some force, at Mr Morl which strikes him on the head and knocks him to the floor where he lies motionless.

Mr Truffitt, despite the efforts of others restraining him, stamps twice forcefully on Mr Morl's head, the first time connecting with the right side jaw/neck area and the second time, having jumped into the air to get both feet off the ground, connecting with his head. **Mr Truffitt** is pulled away and subsequently flees the scene.

Mr McCarthy's role in this fight is to kick at, but the kick does not connect with, a person who is nearby to him.

Mr Hatton is separately seen to be exchanging punches with **Mr Ozard**. Mr Hatton falls back against a pillar and then to the floor, when **Mr Ozard** is seen to kick with his left foot twice, connecting the second time with Mr Hatton's elbow. **Mr Ozard** then pours beer over Mr Hatton and drags him off the screen, but he is later seen to put his foot onto the right side of Mr Hatton's head. Mr Hatton tries to get up but falls and strikes his neck on the table.

The action then moves outside where Mr Bamford and Mr Hatton are initially talking and the English males are present. **Mr Bamford** is seen to push one of them causing him to fall to the floor. **Mr Hatton** pushes Mr Bamford in the chest then **Mr Bamford** and **Mr Hatton** are trying to punch each other. While running towards Mr Bamford, Mr Hatton falls to the ground and **Mr Bamford** kicks at Mr Hatton and it was submitted that the kick does not connect, but we find that it does connect. **Mr Hatton** is approaching Mr Bamford with a raised fist. **Mr Bamford** fends him off and we note particularly that **Mr Bamford** appears to be spoiling for a fight. The action then fizzles out.

In terms of bystanders to this incident, throughout the recording there can be heard various things: a scream, someone asking why the fighting is continuing, people shouting (especially encouragement to Mr Truffitt) and at times, others are trying to pull the fighters apart. There is reference in the paperwork to an older couple who had to take refuge in the basement – terrified for their safety - and generally that persons were concerned.

You were all arrested at various times over the next couple of days, apart from Mr McCarthy who was arrested later. Mr Ozard handed himself in. You were all interviewed. **Mr McCarthy** and **Mr Truffitt** exercised their right to silence. The Prosecution has already summarised what the rest of you said. **Mr Bamford**, you were claiming to be the peacemaker and I will return to this as that is not accepted. You accepted that the English males had played a part, but you predominantly blamed Mr Hatton. You became emotional when shown the footage and claimed to be acting in self-defence, especially when kicking Mr Hatton outside. **Mr Hatton**, you denied being the cause of the fight despite independent witness evidence about your antagonistic behaviour, but we make no finding about this. You accepted having been aggressive and that you stamped on another's head, which you described as "inexcusable", and so it is, and that witnesses would have been alarmed and distressed. You had no recollection of what happened or why. **Mr Ozard**, you described the English group "as lairy." Whilst you suggested at first that you were trying to stop the fight and mentioned being threatened, when you were shown the footage of your foot connecting with Mr Hatton's head, you accepted that you had "lost it" and said you were "gutted" and said that you had "messed up" and you could see why people had felt scared.

We have heard the Victim Impact Statement of Mr Morl who sustained a broken leg in the course of the incident, although responsibility for that cannot be attributed to any of you specifically. He is unable to work because of that injury. He describes his diagnosed PTSD, which is a different matter, with "flashbacks and nightmares". He hardly goes out and is on constant alert for threats. We were surprised that Counsel put forward points seeking to put the blame on Mr Morl. We have also been given various photographs of the injuries and the scene.

Mr Bamford, you were born in England and you have been resident in Guernsey for some years. You are 35 years old (34 at the time of the offence). You are a painter and decorator. You have numerous (57) previous convictions, including convictions for offences of violence, including arson, affray, assault, violent disorder and destruction of property in England and 10 convictions in Guernsey for offences of violence, most recently in October 2019 for the possession of an offensive weapon, for which you received a Suspended Sentence. You have received a range of disposals.

Mr Hatton, you are a UK resident of 49 years of age (48 at the time of the offence). You have no relevant previous convictions and nothing recent.

Mr McCarthy, you are a local man of 56 years of age now and at the time of the offence. You are unable to work through ill-health. You have 32 previous convictions including offences against the person and property and one for arson (for which you received a 3 year prison sentence from the Royal Court when you were 19 in 1983). Your most recent relevant previous conviction is for disorderly conduct in 2011.

Mr Ozard, you are a local man of 51 years of age (50 at the time of the offence). You are an electrician. You have some previous convictions which are historic with the last relevant one in 2000 and the most recent one in 2012 for an unrelated offence.

Mr Truffitt, you are a local man of 36 years of age (35 at the time of the offence). You have a very large number of previous convictions including many for offences of violence, including GBH in 2007 (aged 19), for which you received 4 years and 6 months' Youth Detention; assault and unlawful wounding in 2011 for which you received a custodial sentence of 3 years; and criminal damage and possession of an offensive weapon in January 2022. You have received suspended sentences in the past

for assault which have been breached by further similar offending. The sentence that you received in January 2022 was 18 weeks and we were told that you were released in March 2022.

You have all been on conditional bail throughout the proceedings except Mr Truffitt who has been remanded in custody since 16th December 2022 (so just over 39 weeks).

Sentencing Considerations

There are no Sentencing Guidelines, as such, for sentencing offences of violence. The English Sentencing Guidelines are of assistance, especially in terms of aggravating and mitigating factors, but we sentence on Guernsey considerations.

Advocate Watson has explained how it came about that four defendants are charged with violent disorder and one with two assaults. We sentence for the offences on the current Indictment: violent disorder – maximum sentence of 5 years and two assaults. The essence of violent disorder is that three or more persons, who do not all have to be defendants and do not all need to be using or threatening violence simultaneously, are present together and use or threaten to use unlawful violence and the conduct of all of them taken together would cause a person of reasonable firmness present, (although such a person need not actually be present), to fear for his personal safety and that is clearly what has happened in this case. Assault is an offence which is not often seen in the Royal Court, but the elements of it are well known.

The Court has always viewed kicking to the head as particularly dangerous. It is of note that at least three of you referred to the violent atmosphere affecting you on that late afternoon. We make the point that there were others in the pub (clearly visible) who managed to control themselves and indeed tried to break up the fight. However annoying other people are, there is absolutely no justification for this level of violence.

Messrs **Hatton, McCarthy, Ozard and Truffitt** we are sentencing you in relation to the violent disorder for a sustained brawl of some 4-plus minutes and we set the initial starting point based on that overall scenario, which included kicks by several of you to other people's heads. We set the initial starting point for the violent disorder, before aggravating and mitigating factors, at 3½ years. That does not take into account the particular aggravating factors in relation to you individually and I will come on to that.

Mr Bamford, you are charged with two assaults. As I have mentioned, we reject the narrative that you have given, that you were acting in fear, as that is inconsistent with your behaviour outside. We will set a combined starting-point for the two assaults at 3 years.

In this case there are aggravating factors in terms of previous convictions, the fact that the fight was occurring in a busy area, missiles were thrown by Mr Truffitt and he used the pool ball as a weapon. There were vulnerable people present and all of you, to a greater or lesser extent, were under the influence of alcohol. There is a mitigating factor that is applied in respect of all of you in so far as this was not a planned incident.

It is important in the sentencing exercise to look at the individual role that each of you involved in the violent disorder has played. A more significant role can be an aggravating factor whereas a lesser role can be a mitigating factor. We set the revised starting-points before consideration of plea and personal mitigation as follows:

- **Mr Hatton** – your role is aggravated by the fact that you carried on fighting outside the Harbour Lights. We acknowledge that you were also a victim. You have no relevant previous convictions.
- **Mr McCarthy** – your role is the least role by a long way. You have considerable previous but nothing recent.

- **Mr Ozard** – your actions were confined to the inside of the Harbour Lights. You have no relevant previous convictions.
- **Mr Truffitt** – your sentence starting-point will be aggravated by your appalling record and by the fact that you were responsible for the most serious violence, beyond the scope of the incident generally – throwing missiles, using the balls as a weapon and the vicious stamping and jumping on Mr Morl’s head twice.

Mr Bamford – We are treating you separately, as we must, in relation to the assaults. It is acknowledged that you are also a victim and your narrative has been rejected. You do have previous convictions.

So the revised starting-points are as follows:

- **Mr Hatton** - your revised starting-point will be increased to one of 4 years (primarily because of the continued fighting outside);
- **Mr Ozard** - your starting-point remains the same at 3½ years;
- **Mr McCarthy** - your revised starting-point is reduced (because of your role) to 2 years;
- **Mr Truffitt** - your revised starting-point is increased to 5½ years because of your record and the level of violence over and above the general violence going on in this incident.
- **Mr Bamford** – your revised starting-point is increased to 3½ years.

Pleas & Mitigation

In terms of plea, the Court must first consider the impact of the guilty pleas that you have all entered in relation to your sentence and, perhaps generously, we afford you all full credit for those guilty pleas in the face of overwhelming evidence.

In terms of personal mitigation, the Court has considered carefully the helpful and informative Social Enquiry Reports prepared in respect of each of you and we have also listened carefully to the submissions of your experienced Advocates, who all made good points in your mitigation. In respect of all of you, we accept the apologies that have been proffered and we note the acknowledgement of impact on Mr Morl and others. We have read the materials provided by some of you, notably Mr Bamford, Mr Ozard and Mr McCarthy.

Messrs. **Bamford, Hatton, Ozard** and **Truffitt** you have also raised the issue of impact on your families if there are to be immediate custodial sentences. In accordance with the case of Bourgaize v The Law Officers of the Crown (2014) (Judgment 49), the Court is required to consider and has specifically considered the Article 8 Rights of any minor children and others affected by sentences of immediate custody. A sentence of imprisonment, almost by definition, interferes with family life. The imposition of a sentence of imprisonment for a serious criminal offence is, in accordance with law and in pursuit of a legitimate aim with Article 8.2. Parents who commit serious offences face prison like everyone else. The issue for this Court is always whether the imposition of an immediate custodial sentence would be a proportionate interference with family life, given the balance between the various factors.

Turning to you individually in terms of mitigation, **Mr Bamford** – we note what is said about your upbringing and the difficulties you faced as a juvenile. We note that you have been making changes to your social circle. We note that you met your wife and you now have three children and we note particularly your son with ADHD and the other children in the household. We note the letters that you and your wife have written in terms of the impact upon you, your family home and the potential for that home to be lost and the impact on your wife’s career as she would have to assume sole responsibility for the children. We also note the impact on your children as they would then be in the sole care of their mother.

You are working the best that you can as a painter and decorator. The offence has impacted on your work as it has in respect of the other defendants who are working. We also note, particularly in your case, the physical symptoms which you have been displaying and the content of the GP's letter. You have expressed remorse and shame. You are assessed by the Probation Officer as having the skills to avoid reoffending and as not needing any Probation assistance. You are assessed as suitable for Community Service. You are assessed as having a medium risk of reoffending and there will be a referral to MAPPa if you receive a sentence in excess of 12 months or more, but it is not felt that you are a risk of serious harm otherwise.

Mr Hatton – you have no relevant previous convictions. Alcohol was clearly playing a big part in this offence, but there is no evidence that you have any problematic use of alcohol or other substances which need to be addressed. We note your family, your wife and a daughter who live independently from you, and we note the appropriate response of your family and friends to your offending. We also note the ages of your children. Again, no intervention is required in respect of you. You have expressed shame, shock and remorse and you have not attempted to minimise your role.

You are assessed as having a low likelihood of reoffending with a moderate risk of serious physical harm and again, there would be no referral to MAPPa for you, unless you receive a sentence in excess of 12 months.

Mr McCarthy – we note particularly your peripheral role in this matter. Alcohol was not a significant factor. You have again expressed your shame, remorse and disappointment. Your Counsel described it as a massive misjudgement. We note your significant health issues which mean that you cannot work. There is no need for any intervention in relation to alcohol issues based on your disclosure to Probation. Your last relevant conviction was for disorderly conduct some 12 years ago and your last actual conviction was in 2015. You are assessed as having a moderate risk of further violent offending but the risk is not considered imminent or as likely to cause significant serious harm. You do not meet the criteria for MAPPa.

Mr Ozard – your Counsel submitted that you were reacting to the kicking of Mr Bamford's head and it was submitted that your involvement was at a lower level than some of the others. You have expressed extreme remorse. You fully acknowledge the harm and the risk of really serious harm and that those who were present were terrified. We have taken into account what has been said on your behalf in relation to past trauma. After a period of offending when you were younger, you have settled down to be a family man. In your case, you have two teenage children and, should you be imprisoned, your partner will look after them and she will have to shoulder the full burden of that and the loss of your wage would be felt financially, although, fortunately, the grandparents are able to assist. There are no current issues with alcohol. There is no need for Probation intervention, but there is a need for you to address your past trauma and you intend to do so, we have heard today. There is a gap since your last conviction in 2012 and your last relevant conviction in 2000.

We have taken note of the references from well-known local businesses attesting your remorse and describing you as hardworking man and you are clearly well respected in your industry. You are assessed as having medium likelihood of reoffending and a medium risk of serious harm to the public, but not imminent, so again, no referral to MAPPa unless you receive a sentence in excess of 12 months.

Mr Truffitt – we accept that you were trying to usher people out of the Harbour Lights at the beginning of the incident but thereafter the level of violence was wholly unacceptable. As you acknowledged, it is extremely fortunate that the pool ball that you threw did not connect with anybody. You have been able to reflect that the violence, from the point where you were grabbed, was the wrong response and you understand that the Court takes a very dim view of such violence. The Court acknowledges that there was a gap in your offending and that you had formed a positive relationship before the events of January 2022 when you received an 18 week sentence. You have raised the impact upon your children and we take that into account. You have also expressed shock, remorse and guilt about the injuries to the victim. It is a positive that you are accessing help in the Prison with your adverse past experiences

and for the first time, therapy is available to you and the reports are positive. You have served over 39 weeks in custody which will be taken into account.

You are assessed as having a very high likelihood of reoffending which we have to take into account and you pose a risk of serious harm to the public and due to the level of violence there will be a referral to MAPPA regardless of the length of any sentence. The report writer invited us to consider an Extended Sentence. Such a sentence is only possible if the custodial part of the sentence exceeds 4 years.

Sentence

The Court is shocked by the violence captured on the CCTV footage. Several of you did not even want to watch it and neither did we, yet we had to watch it several times. The Probation Officer rightly described it as “harrowing”. The levels of violence are sickening. Your behaviour was disgraceful, especially at your ages. People were injured and property was damaged and those in the vicinity were frightened. There can be no doubt that the custody threshold is passed in respect of all of you and you must face the consequences of your actions. Islanders and visitors should be free to socialise without the fear of being caught up in such an incident. Deterrence and protection of the public are high on the Court’s agenda. Realistically, all of you have been preparing for an immediate custodial sentence, but in each of your cases, we have been asked to consider alternatives and we have given full consideration to all the submissions made to us.

In relation to those of you who have raised the impact upon your family, the Court has to balance the impact on family life against the legitimate aims of sentencing in the case of serious violence. The Court has undertaken the balancing exercise very carefully. In a case such as this where the custody threshold is passed, the balancing exercise may entitle the Court to consider reducing the length of the sentence or suspending it or imposing a Community Service Order as a direct alternative, but we stress that it is a balancing exercise when the offence is a serious one, as the offences of violent disorder and assault are in this case. The Court has concluded that the offending in this case is, on the whole, too serious for there to be alternative sentences passed on the basis of impact on family, except in the case of **Mr Bamford** where his particular circumstances and the particular impact upon his family, coupled with his health, enabled the Court to look at alternatives.

In respect of **Mr Bamford** also, I mention that the totality principle is taken into account.

Taking into account all the above and applying the appropriate discounts, the sentences will be as follows:

- **Mr Truffitt** - Your sentence will be one of 3½ years’ immediate custody with effect from 16th December 2022. An Extended Sentence is not an option open to this Court bearing in mind the ultimate sentence passed.
- **Mr Hatton** - The sentence will be one of 2½ years’ immediate custody from today.
- **Mr Ozard** - The sentence will be one of 2 years’ immediate custody 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), each of you will be subject to supervision upon release 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.

- **Mr McCarthy** - In your case, in view of your much lesser role, the Court is able to consider an alternative to immediate custody and your sentence will be one of 12 months, suspended for 3 years.

- **Mr Bamford** - You face sentencing in respect of two assault charges. In respect of the first, you are sentenced to 240 hours Community Service as a direct alternative to 2 years' custody and in respect of Count 3, (the assault which occurred outside the Harbour Lights) you are sentenced to 2 years' imprisonment, suspended for 3 years and that is a concurrent sentence.

In respect of the suspended sentences, Mr McCarthy and Mr Bamford you will not have to serve the suspended sentences which have just been imposed unless, during the next three years, you are convicted of an offence punishable with imprisonment. If you are convicted of such an offence you will be liable to serve all or part of the sentences. I emphasise that a Suspended Sentence is not a let-off for anyone and remains a custodial penalty. It will hang over the heads of those who receive them for that period of time and there will be dire consequences if they are breached so please do not forget that.

In relation to the Community Service Order, **Mr Bamford** you have to complete 240 hours as a direct alternative to 2 years' custody. The order is made because of the seriousness of the offence for which you have been convicted and you are being offered an opportunity to make a positive contribution to the community through unpaid work. You have signed the form and you are being assessed as being suitable for a Community Service Order and you understand the power of the Court to review the Order and the consequences that may follow if you fail to comply with any of the requirements or if you are convicted of a further offence while the Order is in force. The Court is satisfied that provision can be made for you to perform work and that you are a suitable person to perform it. Please note that if you fail to complete even 1 hour without a medical certificate or commit any other offence, you will be brought back before the Court and you will face going to Prison.

Summary of Sentences

We did consider the issue of compensation as requested by the Prosecution. Mr Morl has clearly suffered losses, but in view of the complexity of attributing liability and of assessing losses, we consider that these claims are better dealt with by the Civil Court and we treat the compensation sought by the Harbour Lights similarly.

- **Mr Hatton** - 2½ years' custody;
- **Mr McCarthy** - 12 months' suspended for 3 years;
- **Mr Ozard** - 2 years' custody;
- **Mr Truffitt** - 3½ years' custody with effect from 16th December 2022;
- **Mr Bamford** - Community Service Order of 240 hours as a direct alternative to 2 years' custody; and 2 years' custody, suspended for 3 years concurrent.

Catherine Maureen Fooks
Judge of the Royal Court

22nd September 2023