

Sentencing remarks regarding an offence of Assault, Possession of an Offensive Weapon; contrary to Section 4(1) of the Criminal Justice (Miscellaneous Provisions) (Bailiwick of Guernsey) Law, 2006 and two counts of Perverting the Course of Justice.

[2025]GRC014

**ROYAL COURT
FULL COURT**

24 January 2025

**Before: John Russell Finch, Esq., O.B.E., Lieutenant Bailiff
and Jurats: Steven John Morris, Tina Jane Le Poidevin,
Paul Martin Burnard, Ian Michael Brown, Kay Parnwell,
David James Mortimer and Heather Reed.**

THE LAW OFFICERS OF THE CROWN

- v -

**JOE PACKHAM
ELIZBETH SHANNON FERBRACHE
PHANINTHON ATIKOM**

Advocate L Roffey appeared for the Crown

**Advocate C Fletcher appeared for the Joe Packham
Advocate S J Maindonald appeared for Elizabeth Ferbrache
Advocate S E Steel appeared for Phaninthon Atikom**

LIEUTENANT BAILIFF:

Background

You appear here today on an Indictment containing 4 Counts:

- Count 1:** Packham, assault;
- Count 2:** Packham, possession of an offensive weapon;
- Count 3:** Ferbrache, perverting the course of justice;
- Count 4:** Atikom, perverting the course of justice.

Counts 1, 3 and 4 carry a maximum of life imprisonment. Count 2 carries a maximum of 5 years' imprisonment.

Mr Packham is now aged 24, a local man. There are previous convictions for criminal damage and other offences. On 15 October 2020, for which a Community Service Order (CSO) was imposed plus Probation, and for assault on 13 September 2021 which a suspended sentence of 4 months' imprisonment, plus further CSO hours was imposed.

Miss Ferbrache is aged 24. We treat her as of previously good character. Mr Atikom is now aged 22 and we also treat him as of previously good character, a young person when committing the offence.

Timely guilty pleas were entered. All three defendants have been on conditional bail since 8 April of last year, which Mr Packham breached by approaching the victim and using threatening words. This breach was denied, which necessitated the victim having to come to give evidence. The breach was proved, (but, mercifully conditional bail was continued). This is not something that impresses the Court.

We have heard the facts in considerable detail, and I do not propose to go over them in great length. Counts 1 and 2, concerning Mr Packham relate to a very alarming incident where you confronted the victim, who was the ex-partner of Miss Ferbrache at her home. You were obviously angered at the victim's presence, helping it was said, to put the small children to bed. Outside, the evidence is you told the victim *"I am going to fucking kill you"* and shortly returned with a machete *"well, look what I have fucking got for you"* was said. The victim was in his van, and you attacked the vehicle with what was estimated a foot long blade, causing considerable damage. After a short time, the victim kicked the door, you having swung the weapon three times and this pushed you backwards and you ran off. The victim suffered a small cut under his right eye and a bad back. Three independent witnesses saw what happened and we have heard their descriptions. These coincide on the facts, including repeatedly hitting the van and glass smashing. Miss Ferbrache was present and yelling at you to stop.

As such a serious weapon was used, it was necessary to deploy armed officers. The machete sheath was found in your garden. The weapon itself has not been recovered, which is of considerable concern.

In respect of Counts 3, Miss Ferbrache lied to the officers attending the scene, saying neither Mr Packham nor a weapon were involved. This is contradicted by the messages on her phone which we have heard. Next, Miss Ferbrache exchanged messages which we have also heard about, with Mr Packham designed to help him evade arrest, hide evidence and fabricate an alibi. This was done in a good deal of detail, not just on an impulsive moment. Finally, Miss Ferbrache knowingly produced a false witness statement, lying about not knowing who the assailant was and claiming she saw no weapon.

On Count 4, Mr Atikom, knowing what Packham had been involved in picked him up at the Dairy, knowing he was on the run and saying to a contact *"yeah mate, helping my boy out"*. You referred to the victim as a *"pussy, he's a snitch"* and that *"now we're gliding around like nothing happened"*.

We can deal pretty briefly with the subsequent police interviews. Mr Packham presented himself at the police station at 10.10pm. You lied your head off in the first interview and continued to do so in the second interview. In the third interview you did admit lying previously but continued lying about the offence. We again note that you breached your bail condition and despite your denials this was proved against you.

Miss Ferbrache did not do a great deal better. You remain adamant that no machete was involved. Your messages sent to Packham were out of concern not, you said, to help him evade arrest.

Mr Atikom also failed to come up with anything approaching the real picture and claimed he did not know anything about the assault, nor that the police were after Mr Packham. You claimed you had not seen the videos and messages he had sent you.

Sentencing Considerations

The use of such a deadly weapon in Counts 1 and 2 is a serious consideration. The dangerousness of a weapon is always a significant factor in offences of violence. Mr Packham went and fetched it to the van where the victim was seated. It is a very lucky thing that no serious bodily harm was inflicted. If

I may speak personally, for a brief moment, I have dealt with, as a courtroom advocate with cases in England, where either serious injury or death was caused and dealt with those cases, as I say, to their conclusion. The deployment of such a weapon is very rare in this jurisdiction, something we are entitled to take note of. The potential for significant harm was there. We combine the two Counts, the assault and the offensive weapon to produce a starting point which we think reflects your overall blame or culpability. There must be an element of deterrence in view of what we have said about the rarity of such matters in Guernsey and our wish to see that such alarming offences remain rare. Nor, do we consider, the three independent witnesses would have relished the occurrence which took place just after 7pm in the public view.

Factoring all these matters in, and also noting your persistent lying to the police, we start at 3 years' imprisonment as a combined total. Had more significant injuries occurred a more serious charge with a considerably higher starting point would be appropriate.

In respect of Count 3, Miss Ferbrache we have been referred to the three separate areas where you lied to protect Mr Packham, ending in a false witness statement. This was not an impulsive one-off bad decision but a course of conduct you persisted in, designed to allow a person to evade justice. This was a serious case, understandably as we have said, resulting in the deployment of armed officers, not some petty fracas, or punch up. We start, perhaps mercifully, at 15 months' imprisonment.

For Count 4, once more there was a good deal of lying to the authorities, you knew, as you had been told that Packham had attacked the victim with a machete and you helped him evade detention and detection, speaking of the victim in a contentious way, as we have heard. You too, knew exactly what you were doing in picking him up. We start, in your case, at 12 months' imprisonment.

The offences, perverting the cause of justice, undermine the very system of criminal justice. The underlying offence here was serious and as cases show, deterrence is called for. Each case has to be assessed, looked at and decided on its own facts. We start with a custodial sentence, whilst looking at the legal authorities.

Mitigation

Having arrived at the starting points we now consider applicable mitigation.

The guilty pleas must be taken into account and are in your favour, despite the powerful evidence obtained about messages etc. We are obliged to give credit for those pleas.

We have listened carefully to the submissions of your respective Advocates, read the Probation Reports and considered all the written materials put forward on your behalf's.

In the case of Miss Ferbrache and Mr Atikom, as stated, we treat you as of previous good character, which is in your favour, as personal mitigation. We note that Miss Ferbrache has two small children and is expecting a baby in May of this year.

Here, for the record, we consider the local case, the authority of The Law Officers of the Crown v Bourgaize (Royal Court, 2014), which is consistent with a number of English authorities. Putting it shortly, the duty of a sentencing court is to balance the impact on family life of a custodial sentence with the legitimate aim of sentencing a serious criminal case. The likelihood of such interference being disproportionate under Article 8 of The European Convention is inevitably progressively reduced, becomes less, the graver the offence. The effect on children of the family, including the unborn, might afford grounds for mitigating the sentence. It is something which is infinitely variable. Parents who commit serious offences face prison like everyone else. The domestic circumstances and arrangements are, we are given to understand, that the two young children go to your older sister's family and Advocate Maindonald has given full details, including the social housing issue.

In relation to Mr Packham, his breach of bail also involving the victim is an indication of his attitude. We afford a total discount of 50%, erring, if at all, on the side of generosity.

The discounts for the other two defendants on the custodial sentence will be apparent in due course. We have taken particular notice of previous good character, as well as the pleas. We emphasise sentencing is never a purely mathematical exercise. We do not feed everything into a computer and see what comes out. We emphasise that. Nothing we say underlines the facts that these were serious offences involving interference with the cause of justice. I will deal on behalf of the Court, first of all, Mr Packham.

Sentence

Mr Packham, it is only through good luck that you are not here facing a more serious charge and the victim did not suffer more significant injury in this alarming onslaught in public view with a potentially deadly weapon.

- On **Count 1**, the sentence is 18 months' imprisonment,
- On **Count 2**, the sentence is 9 months' imprisonment, concurrent.
- **Total is 18 months' imprisonment** from today's date.

Miss Ferbrache, this has given us a considerable degree of concern and taking account of all the circumstances we have set out, the sentence in relation to you, Miss Ferbrache, is 9 months' imprisonment, but mercifully we will suspend that for a period of 2 years. That is the order of the Court; if you do anything wrong in the next 2 years, not just something like this, but anything that carries the possibility of prison, you will very likely get the 9 months added on top, whatever your domestic circumstances are, and your Advocate will certainly reinforce that if you speak to her afterwards.

- 9 months which is a custodial sentence, but we suspend it for 2 years.

Mr Atikom, in your case we have decided again that a sentence of immediate prison is not justified. You will pay something back to the community by doing 120 hours Community Service Order (CSO), as a direct alternative to 6 months' imprisonment. So, in the next year you put something back to those 120 hours and if you do not, if you do not do every minute, you come back here and you are very likely indeed to get the 6 months, and the same will happen if you re-offend, and we hope you never even think of re-offending again.

- 120 hours CSO as a direct alternative to 6 months' imprisonment.

Forfeiture and Destruction Orders as requested, Miss Ferbrache to have the SIM card returned prior to disposal of the phone.

There is a question of compensation but in this case, we think it is best left to a Civil court to determine the rights and wrongs of the matter.

J R Finch, O.B.E.
Lieutenant Bailiff

24 January 2025