

ROYAL COURT  
(Samedi Division)

22.

7th February, 1997

Before: Sir Philip Bailhache, Bailiff and  
Jurats Herbert and Quérée

The Attorney General

- v -

Manuel Vieira Goncalves

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1 count of grave and criminal assault.

Plea: Guilty.

Age: 25.

Details of Offence:

Defendant and victim were both patrons of the Madeira Club on the evening in question. The defendant drank more than was normally his wont, and engaged in teasing of the victim's cousin at various times. When the victim remonstrated with him, the defendant invited the victim outside saying, "I'll punch you in the head, you will go straight to the floor". Matters then calmed down for a while only to flare up yet again, with the defendant again inviting the victim outside. Witnesses averred that as the victim approached the door at the end of the evening the defendant closed on him from behind, put one arm around the victim's neck and used his free hand to plunge the knife into the victim's back, causing a horizontal stab wound, 6 cm deep and 7 cm long. The defendant admitted the stabbing but denied significant pre-meditation and stated that when he went to leave the club he encountered the victim standing with two other men by the door. Further that, rightly or wrongly, he feared violence from them and decided to take pre-emptive action which, it was accepted on his behalf, was totally excessive.

Details of Mitigation:

Youth; first offender; probably no substantial pre-meditation; married man with children, one of whom suffers from a serious blood disorder; some fear, real or imagined, of violence to himself; some evidence of remorse; had answered to his bail.

Previous Convictions: None.

Conclusions: 3 years' imprisonment (bottom of the range prescribed by Norris).

Sentence and Observations of the Court:

2 years' imprisonment. A vicious assault which might have led to a much graver injury and a graver charge. The Court accepted that the defendant was himself in fear of attack but it was nevertheless the case that the defendant instigated violence by launching an attack with a knife - a blow of some force and penetration of the knife up to the hilt. Court approved the Crown's conclusions as "absolutely correct" - people should think of the consequences of their actions before they act. The Court took account of the defendant's mitigation, in particular that he was a good worker and did all he could to improve

the lot of his family. A custodial sentence could not be avoided in the circumstances, but as an act of mercy the conclusions would be reduced.

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A.J. Olsen, Esq., Crown Advocate.  
Advocate H. Tibbo for the accused.

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JUDGMENT

5 THE BAILIFF: This was undoubtedly a very serious assault which might easily have led to a much graver injury and a more serious charge. We accept that Goncalves was in fear of attack from the group of men with whom he had been arguing but the fact is that he launched an attack, with his knife, by stabbing his victim in the back and penetrating up to the hilt.

10 It is possible that the victim's action in turning as the blow was struck contributed to the nature of the wound, but it is clear, nonetheless, that it was a blow of some force.

15 Even taking account of his co-operation with the police and his guilty plea and the fact that he is of previous good character, the Court has no doubt that the conclusions of the Crown Advocate are, on ordinary principles, absolutely correct.

20 We have been giving anxious consideration to the personal family circumstances of this defendant. One could justifiably say that men should think of the consequences of their actions for their families before they act. However, this defendant is a good worker who has come to the Island with his wife for the purpose of improving the lot of his family in Madeira. We have been told that about half their joint earnings are sent to Madeira in part to help the medical treatment of their small son, who suffers from  
25 a blood disorder.

30 We cannot avoid imposing a custodial sentence to demonstrate that assaults with a knife will not be tolerated by the Court but, as an act of mercy, we are going to reduce the conclusions. Goncalves, on the single count on the indictment, you are sentenced to two years' imprisonment.

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Authorities

Norris -v- AG (28th September, 1992) Jersey Unreported CofA.

AG -v- Harris (4th December, 1995) Jersey Unreported.

Whelan: "Aspects of Sentencing in the Superior Courts of Jersey":  
May 1995-1996: Noter-Up: pp.31-4.

Current Sentencing Practice: pp.21101-21103 (Release 22: 8-iv-92).

Thomas: "Principles of Sentencing" (2nd Ed'n): pp.93-99.