



of Counsel with care, what one discerns here is really vacillation in the mind of the accused person, deciding at one moment that he wanted to appeal, and at another moment that he did not want to appeal and in the opinion of this Court, vacillation of that character, extended over 2 to 3 months cannot possibly amount to substantial grounds or be the special circumstances of an important character which would justify the application being granted here. There is one point that we think we should, in fairness to Aubin, deal with: it was argued by his Counsel that it was relevant to our consideration of this matter that there was a strong possibility of success, or a possibility of success of the substantive appeal against sentence, given when it was heard; now to get that point off the ground, it was necessary for Counsel to persuade us that the Court, when reviewing the sentence, would be likely to conclude that the sentence of 2½ years here was wrong in principle. The tariff from the English textbook, Thomas, for mugging offences shows that the bracket is there 2 to 4 years. The two relevant Jersey cases are cases where sentences of 3 years were imposed, where the circumstances are certainly comparable to the present case; in the particular case here the prosecution, in the conclusions, moved for 3 years in line with those two authorities. But various mitigating factors were placed before the Court below and as a result the sentence they, in fact, imposed was 2½ years, not the 3 years sought in the conclusions.

It seems to us that it would be quite impossible for an Appellate Court to hold that that sentence of 2½ years was wrong in principle or manifestly excessive, therefore that point which was strongly argued as being something which we should take into account in granting leave, falls to the ground.

is refused, and, of course, it follows that the other application falls to the ground with it.