

1st August, 1985.

Royal Court (Superior Number)A.G. -v- John Anthony McPhee.

Application for extension of time within which to appeal against the sentence of nine months' imprisonment passed on him by the Royal Court (Inferior Number) on the 1st March, 1985, on a charge of grave and criminal assault.

DEPUTY BAILIFF: ".....this Court has said on many occasions, and I am going to repeat it again this morning, that violence of the sort which this case exemplifies generally merits a custodial sentence and of that principle there are very few exceptions. Secondly, if in the course of sentencing, there is a divergence between the principles applied in the Magistrates Court and those applied here, then it is this Court whose sentences are to be looked at as being regarded as the correct sentences. I wish to make that quite clear. However, we are satisfied from what you have said Mr. Whelan that your client has suffered a sense of grievance, on two occasions really, certainly the sense of anxiety because of the mistake of all those in authority up to the very doors of this Court about his previous record which didn't exist and secondly, in the case of the unfortunate occurrences in Her Majesty's Prison, over the questions whether he had actually appealed or not and as regards that matter the Board of Visitors on the bench will be looking into the facts to see that kind of mistake - unfortunate indeed that it is - should not occur again. Therefore, so far as your client is concerned there is a case for saying, and we accept your submission on this point, that the learned Inferior Number might not have taken those particular aspects of what you have stressed sufficiently into account. Prison was merited however, for this offence - it could have had very serious consequences - but considering the facts as put to us and your submissions, we are going to allow the appeal in part and impose a sentence in substitution which will allow your client to be released immediately. Your appeal is allowed to the extent that you will be sentenced to six months instead of nine months and of course with your remission you will be released. You have your legal aid costs Mr. Whelan.