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87/82.

In the Royal Court of Jersey

21st December, 1987

Her Majesty's Attorney General

-v-

Martin Dunstan Boudin

Advocate F.J. Benest for the appellant.

S.C. Nicolle, Crown Advocate.

On the 17th August, 1987, the appellant, having pleaded guilty to charges of larceny of two glasses valued together at approximately £2.00 and an offence under Article 29(2) of the Road Traffic (Jersey) Law, 1956 (tampering with a motor vehicle), was convicted by the Police Court Magistrate and fined £25.00 or one week's imprisonment in default on each charge.

The appellant was not legally represented at the hearing before the Police Court Magistrate.

On the 11th November, 1987, the appellant's advocate lodged an application for an extension of time within which to give notice of appeal together with a notice of appeal against the said convictions on the ground, inter alia, that the appellant, as a result of his age and inexperience and his physical condition upon his appearance before the Police Court, wrongly entered pleas of guilty to said charges. Article 14 of the Police Court (Miscellaneous Provisions) (Jersey) Law, 1949, which governs the right of appeal from the Police Court to the Royal Court provides:-

- "(1) A person convicted by the Police Court may appeal to the Royal Court -
 - (a) if he pleaded guilty or admitted the facts, against his sentence;
 - (b) if he did not, against the conviction or sentence".

The Crown Advocate did not oppose either the application for an extension of time or the appeal itself. Extension of time granted and appeal allowed.

Bailiff: It seems to us Mr. Benest that is the point that we can take now and the Court is prepared to look at it in that way. It is clear from the transcript that your client was so intoxicated that he could not form the necessary intent.

Is this a legal aid case?

Advocate Benest: No Sir.

Bailiff: Very well, you will have your costs. The appeal is allowed and you will have your costs. Stand up Mr. Boudin. You are lucky you could not form the necessary intent because you were too drunk, but if you continue behaving like this and getting so drunk and going around the streets and doing these sort of things there will come a time when you will form the necessary intent and you may well be convicted, but this is a reason for "letting you off" - you were too drunk to form the necessary legal intention. Your appeal is really allowed on a legal technicality. I hope you understand that.

Authorities relied on by the Crown Advocate (but not cited to the Court)

Archbold (4th Edition) Chap. 17 para 17 - 50 and 17 -51.

<u>Ruse -v- Read</u>	(1949) 33 CAR 67
<u>R -v- Pordage</u>	(1975) C.L.R. 575
<u>R -v- Sheehan and Moore</u>	(1975) 60 CAR 308
<u>R -v- Clifford Patrick Garlick</u>	(1980) 72 CAR 291