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ROYAL COURT
(Samedi Division)

85-

5th May, 1995.

Before: The Deputy Bailiff and Jurats
Myles and Vibert.

Her Majesty's Attorney General

-v-

Kevin Barry O'Connell

Application for a review of the refusal of the Relief Magistrate to grant bail on 3rd May 1995.

On 2nd March, 1995, the applicant pleaded guilty to 2 charges of causing malicious damage, and not guilty to 1 charge of violently resisting Police Officers in the execution of their duty and was remanded to appear on 3rd April, 1995.

On 6th March, 1995, the applicant reserved his pleas to 1 charge of assault; to 1 charge of being disorderly on licensed premises, contrary to Article 83 of the Licensing (Jersey) Law, 1974; to 1 charge of violently resisting Police Officers in the execution of their duty; and to 1 charge of assaulting a Police Officer in the execution of his duty. Bail was granted on conditions;

On 21st March, 1995, the applicant pleaded guilty to 1 charge of acting in a manner likely to cause a breach of the peace; to 1 charge of obstructing a Police Officer in the execution of his duty; and to 1 charge of causing malicious damage; and pleaded not guilty to 1 charge of violently resisting Police Officers in the execution of their duty, and was remanded in custody, and again on 24th March, 1994, to appear on 3rd April, 1995.

On 31st March, 1995, the applicant applied to the Royal Court for a review of the refusal to grant bail. The application was refused.

On 3rd April, 1995, the Relief Magistrate refused bail.

On 7th April, 1995, the Royal Court granted the application of the Applicant for a review of the refusal of the Relief Magistrate to grant bail on 3rd April, 1995, and granted bail (*see Jersey Unreported Judgment of that date.*)

On 18th April, 1995, the applicant pleaded guilty to 1 charge of causing malicious damage and not guilty to 1 charge of malicious damage and to 1 charge of being drunk and disorderly, and was remanded in custody; bail was refused.

On 21st April, 1995, the Royal Court granted the application of the Applicant for a review of the refusal of the Relief Magistrate to grant bail on 18th April, 1995, and granted bail (*see Jersey Unreported Judgment of that date.*)

On 24th April, 1995, the Applicant appeared in the Magistrate's Court and denied breaches of the bail conditions imposed by the Royal Court on 21st April, 1995. The breaches were

found to be proved, and the applicant was remanded in custody; bail was refused.

On 28th April, 1995, the Royal Court refused the application of the Applicant for a review of the refusal of the Relief Magistrate to grant bail on 24th April, 1995, (*see Jersey Unreported Judgment of that date.*)

On 3rd May, 1995, the Magistrate's Court refused an application by the Applicant to be admitted to Bail.

Application refused.

W.J. Bailhache, Esq., Crown Advocate
The Applicant on his own behalf

JUDGMENT

THE DEPUTY BAILIFF: We have to say that we have some sympathy with the situation in which Mr. O'Connell finds himself.

5 His complaint against his last appearance on an application for bail in the Magistrate's Court, was that Centenier Gallichan said to the relief Magistrate, and I quote:

10 *"On the last occasion he was released on bail by the Royal Court under certain conditions, one of the conditions was that he stayed out of public houses. He was actually seen in a public house and he actually waved apparently to one of the police officers during the hours of curfew, when he*
15 *should have been indoors".*

Well, it was not a condition of bail; Mr. O'Connell is quite right, but in effect, if one looks at it logically, it was a term, because the condition was that he should stay indoors, and by not
20 staying indoors and going to a public house, he had breached his bail condition.

So, although it is inadequately phrased, I think that the effect of what the Centenier is saying is, in fact, right.

25 We see the difficulty that Mr. O'Connell faces, but, as we have explained to him, and I am sure that he accepts, we cannot do anything else but review the Magistrate's decision, and I regret to have to say that we find the Magistrate's decision is not able
30 to be attacked in law, in the terms that he gave it, and therefore the bail is refused and you are remanded until 18th May, 1995.

No Authorities