

ROYAL COURT  
(Samedi Division)

19.

6th February, 1997

Before: F.C. Hamon, Esq., Deputy Bailiff, and  
Jurats Herbert and Querée

The Attorney General

- v -

Stephen James Hendry

1 count of grave and criminal assault (1st indictment: count 1).

1 count of attempted breaking and entering with intent (2nd indictment: count 1).

On 27th September, 1996, the Court adjourned matter until 14th November, 1996, for a 'Newton' hearing on the grave and criminal assault charge; the accused remanded in custody.

On 8th November, 1996, the accused abandoned 'Newton' hearing and Court further adjourned matter for a week; accused remanded on same terms.

On 15th November, 1996, the accused stated he wished to proceed with 'Newton' hearing, applied for and was granted bail on conditions. (*See Jersey Unreported Judgment of that date.*)

REPRESENTATION OF THE ATTORNEY GENERAL ALLEGING BREACH OF BAIL  
CONDITION IMPOSED ON 15TH NOVEMBER, 1996.

J.G.P. Wheeler, Esq., Crown Advocate.  
Advocate S. Gould for the accused.

JUDGMENT

THE DEPUTY BAILIFF: I have given the Jurats a full Turnbull  
direction. The argument is that Hendry, while under curfew, was  
seen outside the 'Venue' nightclub at 2.30 in the morning. The  
direction in Turnbull (1976) 3 WLR 450 is intended primarily to  
5 deal with the ghastly risk run in cases of fleeting encounters  
such as this.

PC Kemp gave his evidence clearly, confidently and, if we may  
say so, with complete honesty. The three defence witnesses,  
10 including Hendry, are either telling the truth or they have  
colluded to present a totally false story.

We have examined all the evidence most carefully. There are  
several inconsistencies in the evidence of the defence witnesses  
15 which lead us to believe that there may not have been collusion.  
PC Kemp - and this is not a criticism but a fact - has no  
corroborative evidence. There were 100 or so people milling  
around; there was trouble and there are some inconsistencies.  
Hendry is described as having dark brown, collar-length, wavy hair  
20 and we have to say that his hair today in Court does not appear to  
fit that description.

In the circumstances we are going to dismiss the application,  
albeit with some misgivings and only after a very careful analysis  
25 of the facts.

We must say that we found PC Kemp was an honest witness and  
his integrity is not in doubt, but because of Turnbull we are  
going to dismiss the application. Stand up, please, Hendry, your  
30 bail is reimposed on the same terms.

Authorities.

R -v- Turnbull (1976) 3 WLR 450.