

2nd September, 1985.

A.G. -v- Anthony William Dixon

Appeal against sentence of six months' imprisonment imposed by the learned Police Court Magistrate on the 9th August, 1985, on charges of theft and attempted shop-breaking.

BAILLIF: "The Court is going to dismiss the appeal. The Court finds nothing at all in the ground of not being legally represented, we really think that the questions at issue were clearly before the Magistrate and nor does the Court find any substance in the submission that the defendant was not given an opportunity to say what he wanted to say, but as to the question of the reference by the Magistrate to the statement of Hamilton's, the Magistrate was entitled to have the statement before him - he was acting at that stage as a Juge d'Instruction, that is an examining Magistrate. We appreciate that there is an argument which has been ably put, that the Magistrate may at one time have had in his mind an impression which was based not on the charge itself but on the statement of Hamilton, he may at one stage have had it in his mind that in fact the number of bracelets stolen by the appellant was not merely 4 but 8 to 10. That must be a possibility, but that impression we believe, if it was in the mind of the Magistrate was before he retired. He says: "I am wondering if I can deal with this. According to the statement of Hamilton, Dixon - that's you, came into Hamilton's tent He reached into his pocket and pulled out between 8 and 10 silver bracelets I just grabbed a handful". If the Magistrate had immediately gone on to say "I sentence you on that basis", there would have been no doubt in the mind of this Court that he was being sentenced on the basis of stealing 8 to 10 bracelets, and conceivably the sentence might have been less if he had been sentenced on the basis of stealing only four bracelets, but the Court then adjourned for 5 minutes and it is to us inconceivable to think that the Judge did not look again at the charge sheet, and it was quite clear that the charge said four bracelets. And when the Judge comes back after five

minutes, he says " I think that it takes this Court to the limit of its powers, you'll go to prison for six months. This town cannot afford to have people like you, running around, smashing it up, and grabbing this, that and other things, you'll go to prison for six months".

The view of this Court is that six months was the very minimum which any Court could have imposed on the appellant, in view of the fact that twice in three days he made smash and grabs, although on the second occasion he did not manage to grab because some-one came on the scene, and with his record, six months in fact, was, if anything, a lenient sentence and it is interesting that the Judge, before he retires, is not sure whether to send the appellant up to the Royal Court or not. Having retired, having - we have no doubt in our minds - looked at the charge sheet again, and considered the evidence, he adopts what clearly is the more lenient view, that he would deal with it himself, although, of course, he did feel it merited the maximum sentence he could give. Nevertheless, that was the lenient view, and in our own minds, as we have said, we think that was the minimum which any Court could have imposed, and therefore we find that the appeal is dismissed.