

ROYAL COURT

22nd April, 1988

Before: The Deputy Bailiff
Jurat Lucas, and
Jurat Bonn

Her Majesty's Attorney General

- v -

Jose Oscar de Freitas

Guilty pleas to Breaking and Entering
with intent (2 counts);
Illegal Entry and Larceny (1 count);
Malicious Damage (3 counts);
Aiding and Abetting Malicious Damage (2 counts);
taking motor vehicle without owner's consent,
contrary to Article 28 of the Road Traffic
(Jersey) Law, 1956 (6 counts); allowing himself to be
carried in a motor vehicle, knowing it to have been
taken and driven away without owner's consent (2 counts);
Breaking and Entering and Larceny (3 counts);
Larceny (5 counts).
Accused aged 18 at time of offences.

Advocate S.C. Nicolle, Crown Advocate
Advocate S.C.K. Pallot for the accused

JUDGMENT

DEPUTY BAILIFF: If I may first deal with the question of the total sentence, the view of the Court is that a total of two years is the absolute minimum which can be imposed in this case and in our view it makes very full allowance, gives full credit for the eventual plea of guilty. The sentence has been discounted, we are sure by an absolute minimum of one third for that reason and therefore we are going to grant the total sentence of two years.

We are going to vary downwards some of the individual sentences. We think that where there are two counts (one and eighteen) which have been accepted by the prosecution as being only breaking and entering with intent, we think that twelve months' imprisonment in those two cases instead of eighteen months is sufficient. On count twenty three which was the malicious damage at La Moye, there, there was far less damage than in the other two cases and the total value of the damage was only £250 and therefore we reduce that sentence from two years to eighteen months. And we also think that a distinction must be made between the taking and driving away offences and those two cases where the prosecution has accepted that the other co-accused arrived with the car and de Freitas merely allowed himself to be carried in it. And therefore we are going to reduce those two counts which are sixteen and twenty, to three months' imprisonment.

Therefore, de Freitas, you are sentenced as follows:

- On count 1: to twelve months' imprisonment;
 - On count 2: to two years' imprisonment concurrent;
 - On count 3: to two years' imprisonment concurrent;
 - On count 4: to six months' imprisonment concurrent;
 - On count 5: to eighteen months' imprisonment concurrent;
 - On count 6: to two years' imprisonment concurrent;
 - On count 7: to six months' imprisonment concurrent;
 - On count 8: to six months' imprisonment concurrent;
 - On count 10: to eighteen months' imprisonment concurrent;
- and I might say there that we fully agree that where somebody goes out deliberately intending to damage a prison officer's car by way of revenge the sentence has to be a severe one.

On count 11: for the same reason eighteen months' imprisonment concurrent;

On count 12: to six months' imprisonment concurrent;

On count 13: to six months' imprisonment concurrent;

On count 14: two years' imprisonment concurrent;

On count 16: three months' imprisonment concurrent;

On count 17: six months' imprisonment concurrent;

On count 18: twelve months' imprisonment concurrent;

On count 19: six months' imprisonment concurrent;

On count 20: three months' imprisonment concurrent;

On count 21: six months' imprisonment concurrent;

On count 22: two years' imprisonment concurrent;

On count 23: eighteen months' imprisonment concurrent;

On counts 24, 25 and 26: six months' imprisonment concurrent on each. A total of two years' imprisonment.

And de Freitas, obviously now you will be called to give evidence in the prosecution of your friend, who has been called Mr 'X', and we hope that your courage will lead you to give that evidence honestly and faithfully and will you please also bear in mind that as and when you finish your sentence, you should get, as you have promised to do, the assistance of the Probation Service and that you will remain liable to deportation to Madeira should you ever come before this Court again.

AUTHORITIES

Aubin: (1987) Unreported Jersey Judgment: No. 87/25.

Aubin (Appeal) (1987) Unreported Jersey Judgment: 87/32.

Thomas: Principles of Sentencing (2nd Edition): P. 174: "Other Criminal Damage".