

ROYAL COURT

1st June, 1988

Before: the Bailiff,  
assisted by  
Jurats Vint, Lucas, Le Boutillier and Hamon

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Her Majesty's Attorney General

- v -

Dean Gary Marie

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Sentence passed on various counts  
of breaking and entering, larceny,  
malicious damage and on offences  
under Article 28 of the  
Road Traffic (Jersey) Law, (1956)

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Advocate S.C. Nicolle for the Crown  
Advocate S. Slater for D.G. Marie

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**JUDGMENT**

**BAILIFF:** We have little doubt that the bench mark which was sought to be established by the Superior Number on the 14th May last year should stand. We have no intention of departing from it, even if we felt the circumstances entitled us to do so; there should of course be a sentence of imprisonment in cases of this nature. The question is how long, and whether the sentence of two years that was passed on de Freitas is such as to fetter this Court's

discretion in sentencing Marie.

Having regard to the circumstances of de Freitas's involvement, his age and the number of offences and his record, comparing it with that of the accused, we are satisfied that the Court may properly make an appropriate distinction. That distinction has been urged by Miss Nicolle for the Crown to be in fact two years, whereas Mr Slater for the accused, Marie, has suggested that the difference should not be more than one and a half times, that is to say a total of three years.

In our opinion the evidence which was before the Assize Court indicated that certainly, so far as Hautlieu was concerned, de Freitas and Nobrega after breaking in, went back to the digs where they found Marie and, according to de Freitas, it was Marie's suggestion that they should return and remove the safes, which the Jury found they did, and we have no doubt the Jury was right. Therefore, Marie, certainly so far as the safe was concerned, was one of the leading actors in that particular disgraceful episode. We have no doubt either that Marie is a dominating character who dominates people younger or even of his own age whenever he can, that he was throughout the whole of these activities in many ways leading de Freitas on. There is also the fact that de Freitas expressed remorse and having regard to the full circumstances of de Freitas's case we do not feel that we are fettered by a mathematical calculation as to what we should do with you, Marie. We have little doubt that your activities must be brought to a halt as they have been by the proper decision of the Jury and for a sufficient time for the public to be protected from you.

You are sentenced in accordance with the conclusions of Miss Nicolle, the Crown Advocate, and in the proportions she set out which I am not going to repeat, to a total of four years.

Authorities cited:

A.G. -v- Michael Aubin, Unreported J.J. 14th May, 1987

Thomas - Principles of Sentencing, 2nd edition, p.p. 64 to 73, 174