

ROYAL COURT

12th May, 1989

Before: The Deputy Bailiff and  
Jurats Blampied and Orchard

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Her Majesty's Attorney General

- v -

John Charles Last

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Accused sentenced in respect of four counts of  
maliciously setting fire to material contrary to  
Article 17(2) of the Fire Service (Jersey) Law, 1959.

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H.M. Attorney General for the Crown  
Advocate R.J. Renouf for the accused

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**JUDGMENT**

DEPUTY BAILIFF: The Court shares the view of Shaw, L.J., in R. -v- Slater (1979) 1 Cr.R(S) 349 which was referred to us by the Attorney General that arson is always a very serious offence because once something has been set fire to there may be no means of limiting or controlling the consequences of the fire. Accordingly, it is always treated as something which calls for severe punishment but more so when it is repeated and tends to become something that will occur yet again so that he demonstrates he is a real danger to the

society in which he lives. In such cases there are imposed very long terms of imprisonment on the basis that the public has to be protected.

In this case the bulk of the mitigation, very ably put forward by Mr. Renouf, is the effect on the family. We can have no regard to the effect on the former wife because she has chosen divorce and cannot now be considered. So we are left with the effect on the child and the effect on the parents, and we sympathise very much with the parents in this case. But I am going to refer to Thomas - Principles of Sentencing 2nd edition where he deals at p. 211 with the effect of the sentence on the offender's family. It reads thus:

"The Court has stated on many occasions that the hardship caused to the offender's wife and children is not normally a circumstance which the sentencer may take into account. In Lewis the Court refused to reduce sentences of imprisonment totalling three and a half years imposed for burglary stating that it had been urged 'to take into consideration the unhappiness and the distress that his misdeeds had brought upon his dependants. That alas is something which is an inevitable consequence of crime, and it is something which the Court cannot regard as a mitigating circumstance'. In another case a sentence of four years and three months was upheld on a man of 32 whose wife had just given birth to a baby, after losing a child sometime previously, with the comment that 'this Court is very sensitive ... to the distress and hardship which sentences of this nature must necessarily bring upon the family, friends and relations of convicted persons, but this is one of the penalties which ... convicted persons must pay'.

In Ingham the appellant was sentenced to a total of 21 months' imprisonment for driving whilst disqualified; the Court was told that his wife was in an advanced state of pregnancy and her husband's imprisonment had caused severe depression. The Court refused to interfere, saying that: 'imprisonment of the father inevitably causes hardship to the rest of the family ... part of the price to pay when committing a crime is that imprisonment does involve hardship on the wife and family, and it cannot be one of the factors which can effect what would otherwise be the right sentence'."

In this case in three of the four offences there could have been very serious property destruction indeed. The fire could have spread to the first property and then from that property to a lot of others and therefore there was potentially very serious damage. There is we think a marked difference between this case and the other Jersey case quoted to us of A.G. -v- Coutanche (20th March '89) Jersey Unreported because in Coutanche there was an imminent danger to life. We think that there is a marked similarity between this case and that of Slater. It is true that in the case of Slater there were only two offences whereas here there are four. But the Court of Appeal in Slater by reducing the sentence to eighteen months' imprisonment, also suspended that sentence for two years which this Court cannot do. Therefore we think that taking all matters into account a total sentence of eighteen months' imprisonment will sufficiently mark the seriousness of these offences.

Therefore, Last, you are sentenced on Count 1, to twelve months' imprisonment; on Count 2, to eighteen months' imprisonment; on Count 3, to eighteen months' imprisonment; on Count 4, to eighteen months' imprisonment; all those sentences to run concurrently, making a total of eighteen months' imprisonment.

### Authorities

Thomas - Principles of Sentencing 2nd edition, p.211.

R. -v- Slater (1979) 1 Cr. App. R(S) 349.

A.G. -v- Coutanche (20th March '89) Jersey Unreported.

R. -v- Willis (1979) 1 Cr. App. R(S) 156.