

ROYAL COURT

31st July, 1989

Before: The Bailiff and the  
Superior Number of the Court

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Her Majesty's Attorney General

- v -

Mark Ian Schollhammer

and

Peter Bernard Udoh

and

David Elias Jones

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Indecent Assault.

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The Attorney General

Advocate R.G. Day for Schollhammer

Advocate A.D. Robinson for Udoh

Advocate W.A.M. Bridgeford for Jones.

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**JUDGMENT**

**THE BAILIFF:** The Court agrees with the Attorney General that this was a particularly unpleasant and repulsive occurrence. Here was a young girl, stupidly of course, getting herself into a state of intoxication. She was taken to the flat completely helpless and unable to protect herself in any way and was sexually assaulted in various ways by these three accused.

However, the difficulty we had to face is that of the Children's (Jersey) Law, 1969. The Court firstly had to decide whether, in its opinion, a custodial sentence for all three was justified. The Court had not the slightest doubt that that was the proper sentence to impose. The message must go out clearly from this Court, sitting as the Full Court, that sexual assaults of this nature will carry with them, unless there are the most exceptional circumstances, a sentence of imprisonment.

Having said that, the Court was faced with the problem as to whether, if it were to impose a sentence of imprisonment on Schollhammer, it would be one of six months or three years by virtue of the restrictions imposed on it by Article 18 of the above Law. The Court was of the opinion, after anxious consideration, that six months was far too little and, although it had some reservations as to whether three years might be considered perhaps more than it might otherwise have imposed had it had unrestricted powers, it nevertheless felt that three years was not so excessive that it wasn't merited.

Therefore the Court has no hesitation, as far as the first two accused are concerned, in granting the conclusions - we think that there is no reason to distinguish between Schollhammer and Udoh - therefore Schollhammer and Udoh, you are each sentenced to three years' imprisonment. As far as you are concerned, Jones, we think that your part was slightly less than the others and that perhaps the difference which the Crown suggested was not sufficiently marked - you are sentenced to twelve months' imprisonment.

ATTORNEY GENERAL: (indistinct) am I right in thinking that the Court was aware of the other option, which of course is Borstal training?

BAILIFF: Yes, of course, the Court has dealt with the other options. There was Community Service which we considered as well.

ATTORNEY GENERAL: I'm much obliged, Sir.

BAILIFF: Nevertheless we are aware that if one were to sentence an accused to Borstal training, that would be the equivalent of about nine months which, of course, is insufficient.

Authorities referred to:

R. -v- Sheen (1987) 9 Cr. App. R. (S.) 164.

D.A. Thomas' Principles of Sentencing (2nd edition) at pp. 16, 17, 126 (re. Weston and re. Miller).

D.A. Thomas' Current Sentencing Practice at pp. 2231, 4054/1 et seq. and 5022/24/3 (re. Cooper).

Children (Jersey) Law, 1969.