3 pages.

ROYAL COURT

(Superior Number)

57A

1st May, 1991

Before: The Deputy Bailiff, and
Jurats Blampied, Le Boutillier,
Orchard, Le Ruez and Herbert

The Attorney General

- v -

James Peter McLaughlin

Theft with violence (1 count).
Grave and Criminal Assault (1 count).

PLEA: Guilty.

DETAILS OF OFFENCE:

McLaughlin, armed with a long knife and wearing a home-made balaclava, entered the Airport Cash Stores in late evening and threatened a customer who was in the shop with a 9 year old child. McLaughlin then moved behind counter pressing knife against shop assistant's cheek and took £400 in cash. As McLaughlin left he took the customer at knife-point for 50 yards before threatening to kill him if police were called. McLaughlin was found by police dog hiding nearby.

DETAILS OF MITIGATION:

After initial prevarication McLaughlin was co-operative. McLaughlin claimed that he was depressed after death of his brother.

PREVIOUS CONVICTIONS:

Some, but none for an offence of violence.

CONCLUSIONS:

(1) three and a half years' imprisonment
(2) two years' imprisonment consecutive
Total: five and a half years' imprisonment.

SENTENCE AND OBSERVATIONS OF THE COURT:

Conclusions granted by a majority. This was a premeditated robbery. The Court was convinced that the sentence on Count 2 should be consecutive.

The Attorney General.
Advocate S.A. Meiklejohn for the accused.

JUDGMENT

DEPUTY BAILIFF: As the Attorney General said and Mr. Meiklejohn properly conceded these were very serious offences.

The only question which has concerned us, as both Counsel anticipated, is the length of the sentence and the totality principle.

By a majority the Court has decided to grant the conclusions.

We are grateful to Mr. Meiklejohn for assembling a most useful bundle of authorities and he has said everything that could have been said for the accused.

But the Court is satisfied that the crime of robbery was premeditated. And we are entirely satisfied that the sentence for the grave and criminal assault on Mr. Potts must be dealt with by means of a consecutive sentence; indeed very properly, Mr. Meiklejohn found it difficult to argue otherwise. We are not persuaded otherwise by the comments of the Court of Appeal in A.G. -v- Mandel. Here, with the robbery complete, Mr. Potts was manhandled into the road at the point of a knife and this really was a 'hostage' situation. That factor, the hostage element, coupled with the threat to kill, distinguishes the present case from the assault cases of Nozedar, Langford and Gibaut put before us by Counsel and fully justifies a sentence of two years' imprisonment.

As to the robbery, it is always dangerous to compare cases unless in possession of all the facts and all the documentation which was

before the original Sentencing Court. For example, we believe that both Stopher and Louis were 19 years of age at the time they were sentenced to four years' imprisonment and the Court has to have special care when dealing with offenders under 21. As another example, Sheldrake, although he used physical violence, was not armed with a weapon - and it is not appropriate to compare armed robbery with unarmed robbery. Moreover, Sheldrake's accomplice Bree had supplied the means for entry and the stockings for disguise. Here McLaughlin alone was responsible for the entire episode.

The Court is satisfied that three and a half years is near the bottom of the scale for robbery of this kind and indeed, Mr. Meiklejohn, again very properly, conceded that the sentence for the robbery, in isolation should be three to three and a half years.

The only other question with which we have wrestled is the totality principle. Having regard, inter alia, to the Attorney General's reference in R -v- Lacey, a very recent case, the majority of the Court is satisfied that the cumulative sentence is not substantially above the normal level of sentences for the most serious of the individual offences involved, nor do we accept that it is a "crushing" sentence having regard to the cumulative conduct relating to both offences.

Therefore, McLaughlin, on Count 1 you are sentenced to three and a half years' imprisonment; on Count 2 you are sentenced to two years' imprisonment consecutive, making a total of five and a half years' imprisonment.

Authorities

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A.G. -v- Nosedar (1985-86) JLR N.20.

A.G. -v- Langford (1985-86) JLR N.20.

Thomas: "Principles of Sentencing": (2nd Ed'n): p.p. 53-61.

A.G. -v- Shanahan (1974) J.J. 43.

A.G. -v- Perez (1978) J.J. 95.

A.G. -v- Mandel (4th July, 1989) Jersey Unreported.