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ROYAL COURT

23rd August, 1991

116.

Before: The Deputy Bailiff, and
Jurats Gruchy and Le Ruez

The Attorney General

- v -

Mark Louis Fischer

OFFENCE:

- (1) Being drunk and incapable;
- (2) Malicious damage.

PLEA:

Guilty.

DETAILS OF OFFENCE:

- (1) Fischer was arrested one evening, so drunk he was unable to stand without assistance.
- (2) He was detained at Police Headquarters on suspicion of two break-ins. On the 2nd/3rd day of detention, he smeared excrement on the walls of his cell. It cost £100 to clean.

DETAILS OF MITIGATION:

Fischer claimed that he smeared the excrement because he was "uptight" at being detained. He was protesting his innocence of the break-ins. He has a bad record with 31 previous convictions; most were for dishonesty, but on 9/9/88 he was sentenced to four weeks' imprisonment for being drunk and disorderly; and on 4/8/89; he was sentenced to five months and 27 days' imprisonment for malicious damage.

CONCLUSIONS:

- (1) Two weeks' imprisonment.
- (2) Four months' imprisonment consecutive.

SENTENCE AND OBSERVATIONS OF THE COURT:

- (1) Conclusions granted, no observations.
- (2) Two months. Court must not pass sentence designed to cover the period spent on remand for break-in charges subsequently dropped.

Miss S.C. Nicolle, Crown Advocate;
The Accused on his own behalf.

JUDGMENT

DEPUTY BAILIFF: We must be careful with an unrepresented defendant not to impose a sentence for purposes of convenience to cover the period of remand. The sentence goes on the record.

Of course, the defendant has no right to general mitigation in view of his deplorable record, but the fact remains that he was held for two days in respect of charges which have not been pursued. He believed himself innocent of those charges and since they have been withdrawn we must treat him as such. Therefore he was entitled to feel "uptight" as he put it about his continued detention.

Of course he behaved like an animal in smearing his cell, but there was no permanent damage. We feel bound, therefore, to reduce the sentence asked for.

Fischer, on Count 1, you are sentenced to two weeks' imprisonment. On Count 2, you are sentenced to two months' imprisonment consecutive, making a total of two months and two weeks' imprisonment. I am afraid you will still have to return to the prison for the release procedures to be followed, but you will be released later today.

No authorities.