

ROYAL COURT
(Superior Number)

29th July, 1993

101

The Bailiff, and Jurats
Coutanche, Vint, Myles, Bonn, Orchard,
Hamon, Gruchy, Le Ruez, Vibert, Rumfitt

The Attorney General

- v -

Alan James Smitton

Sentencing, following:

guilty plea on 9th July, 1993, to: 1 count of Grave and Criminal Assault;

breach of probation order, imposed in the Magistrate's Court on 15th February, 1993, after guilty plea to: 1 count of breaking and entering and larceny;

breach of a further probation, imposed in the Magistrate's Court on 6th April, 1993, after guilty plea to: 1 count of allowing himself to be carried in a motor vehicle, which he knew to have been taken and driven away without the owner's consent, contrary to Article 28(1) of the Road Traffic (Jersey) Law, 1956;

breach of a binding over order, imposed in the Magistrate's Court on 6th April, 1993, after a guilty plea to: 1 charge of malicious damage.

AGE: 21.

PLEA: Guilty.

DETAILS OF OFFENCE:

Smitton had been involved in an incident at the Lucky Star Chinese Restaurant where a drunken woman who had apparently attempted to 'jump' the queue was arguing with a group of young men. He had confronted the group and had challenged the eventual victim of the grave and criminal assault threatening to sort it out "just one to one". Two days later, in a grossly intoxicated state, Smitton entered the Kensington Inn and recognised the victim. He approached the victim from behind and punched him to the left hand side of his face several times without warning. The victim fell to the floor and Smitton kicked him full force in the face causing serious injuries to his jaw.

The breaking and entering and larceny charge involved commercial shop premises and the larceny of a leather jacket valued at £400, together with cash to a value unknown.

The infraction of Article 28 of the RTL involved Smitton allowing himself to be carried in a vehicle which he knew had been taken and driven away without the owner's consent. Having been arrested for this offence, he was taken to Police Headquarters where he caused the malicious damage to a chair valued at £20.

AGGRAVATING CIRCUMSTANCES:

Premeditation and gross intoxication.

DETAILS OF MITIGATION:

Guilty plea and still a young man. A modicum of remorse had been exhibited by Smitton after his arrest when he enquired "How's the lad?"

PREVIOUS CONVICTIONS:

Several larceny related convictions, refusing to quit licensed premises and obstructing a Police Constable in the due execution of his duty (but no previous violence convictions). All previous convictions had occurred in Jersey since the 25th November, 1991.

CONCLUSIONS:

Grave and criminal assault:	3 years' imprisonment
Breaking and entering and larceny:	4 months' imprisonment (consecutive)
Infraction of Article 28, RTL:	3 weeks' imprisonment (consecutive)
Malicious damage:	1 week's imprisonment (consecutive)

Total of 3 years and 5 months' imprisonment and Probation Orders to be discharged.

SENTENCE AND OBSERVATIONS OF THE COURT:

Sentence for grave and criminal assault reduced to two years' imprisonment. Otherwise conclusions granted. Court has regard to Smitton's youth, the totality principle and a letter of remorse addressed to the Court and handed to his Counsel on his arrival for sentencing.

S.C.K. Pallot, Esq., Crown Advocate.
Advocate Mrs. S.E. Fitz, for the accused.

JUDGMENT

THE BAILIFF: Very little needs to be said about this case. It was a totally unprovoked attack and it was very fortunate that the victim was not more seriously injured.

Having said that, we have looked at the other cases put before us, and have compared the facts of this case with the facts in those prosecutions as far as we are able to glean them from the reports; however, it cannot be said too often that previous cases are no more than a guide. They are not authorities on what the Court must or must not do, because without knowing all the facts before the sentencing Court, it is impossible for any Court to be sure that like is being compared with like.

Nevertheless, we have taken into account your youth; the fact that you have written a letter, which we have read carefully in Chambers; and the totality principle mentioned by your Counsel, and have come to the unanimous conclusion that the appropriate sentence for the assault is one of two years' imprisonment, and you are therefore sentenced to two years' imprisonment for that offence; and as regards the breaches of probation, again, the appropriate sentences as asked for by the Crown and not dissented to by your counsel, is five months' imprisonment; four months' for the first breach, and a total of four weeks' imprisonment for the second breach, consecutive. Therefore you are sentenced to a total of two years and five months' imprisonment. The probation orders are herewith discharged.

Authorities

A.G. -v- Nozedar (25th October, 1985) Jersey Unreported; (1985/86)
JLR N.20.

A.G. -v- Tregaskis (25th July, 1988) Jersey Unreported.

A.G. -v- Hunt (24th February, 1989) Jersey Unreported.

A.G. -v- Norris (3rd June, 1992) Jersey Unreported.

Norris -v- A.G. (28th September, 1992) Jersey Unreported C.of.A.

A.G. -v- Welsh, O'Brien (25th February, 1993) Jersey Unreported.

A.G. -v- Whiteford (2nd July, 1993) Jersey Unreported.