

ROYAL COURT  
(Samedi Division)

187.

16th September, 1994

Before: The Bailiff, and  
Jurats Myles and Orchard

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The Attorney General

- v -

Reginald Philip Smith

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1 count of breaking and entering and larceny.

AGE: 48

PLEA: Guilty.

**DETAILS OF OFFENCE:**

A determined forcible entry of commercial premises by night; n.b. Manager of premises lived in flat above and access to flat via commercial premises. Goods worth £3,600 stolen. Virtually all goods recovered. Repeated and vehement denials of involvement despite overwhelming forensic evidence. Guilty plea at the eleventh hour.

**DETAILS OF MITIGATION:**

Very strong recommendation of Probation Order in Social Enquiry Report. Eight months on remand.

**PREVIOUS CONVICTIONS:**

Long record including four years' imprisonment for a similar offence in 1986. Some gaps in record.

**CONCLUSIONS:** 2 years' imprisonment.

**SENTENCE AND OBSERVATIONS OF THE COURT:**

Three years' probation. Smith "went straight" between 1988 and 1993. Credit can be given for that gap and an exception can be made.

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A.J. Olsen, Esq., Crown Advocate.  
Advocate R.G. Morris for the accused.

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JUDGMENT

5 THE BAILIFF: If it had not been for the fact, Smith, that you have managed to go straight between August, 1988, and November, 1993, this Court would have had no hesitation in sending you to prison again, because your guilty plea is not very strong mitigation in view of the late hour at which it was finally entered. Nor was the fact that the property was recovered is much in your favour because, again, the owners were kept out of it for nine months. Furthermore the case against you was overwhelming: the forensic evidence was very strong.

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15 Nevertheless, because of that period of time, and also because you have spent eight months on remand, the Court feels able to make an exception to the usual sentence which persons who break into premises at night can expect - that is to say a prison sentence. We are going to put you on probation for three years, as suggested. There are a number of conditions attached to the Probation Order: that you will live and work, if you can, as directed by the Probation Officer; that you will be of good behaviour during that period; and that, if necessary, you will come up for sentencing to this Court if you re-offend. If you re-offend, the effect, as you counsel has said, will be that the eight months you have served on remand in prison will not then count towards remission of your sentence. Therefore you can expect, if you offend again in a sufficiently serious way, to go to prison for that offence and even if it is not particularly serious you may well go to prison for this offence. Certainly, if you commit a serious offence again, you will go to prison for that and you will certainly go to prison for this one.

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Therefore, under the circumstances I have mentioned, you are put on probation for three years.

Authorities

Whelan: Aspects of Sentencing in the Superior Courts of Jersey:  
p.p. 64-69: Breaking and Entering and Larceny: Commercial  
and Residential Property.