

ROYAL COURT
(Samedi Division)

19th January, 1996

14.

Before: The Bailiff, and
Jurats Bonn and Potter

The Attorney General

- v -

William George McLean

Admitted breach of a Probation Order imposed by the Superior Number of the Royal Court, exercising appellate jurisdiction on 16th February, 1995, (see Jersey Unreported Judgment of that date).

On 25th November, 1994, the accused appeared before the Inferior Number after pleading guilty to the following counts:

- 1 count of being carried in a motor vehicle, knowing that said motor vehicle has been taken and driven away without either the consent of the owner thereof or other lawful authority, contrary to Article 28 of the Road Traffic (Jersey) Law, 1956 (count 1);
- 2 counts of assault (counts 8, 23);
- 1 count of being disorderly on licensed premises, contrary to Article 83 of the Licensing (Jersey) Law, 1974 (count 9);
- 1 count of illegal entry with intent (count 22);
- 3 counts of being a person under the age of eighteen consuming intoxicating liquor on licensed premises, contrary to Article 13(2) of the Licensing (Jersey) Law, 1974 (counts 24, 25, 26);
- 1 count of larceny (count 27);
- 2 counts of obtaining money by false pretences (counts 28, 29);
- 1 count of possession of a controlled drug (amphetamine sulphate) contrary to Article 6(1) of the Misuse of Drugs (Jersey) Law, 1978 (count 30);

and was sentenced to a total of 8 months' Youth Detention, made up as follows:

- Count 1 : 1 month's Youth Detention.
- Count 8 : 3 months' Youth Detention.
- Count 22 : 1 month's Youth Detention, consecutive.
- Count 23 : 1 month's Youth Detention, concurrent with count 8; consecutive to all other sentences.
- Count 27 : 1 month's Youth Detention, consecutive.

Count 28 : 1 month's Youth Detention, consecutive.
Count 29 : 1 month's Youth Detention, consecutive.
Count 30 : 1 month's Youth Detention, consecutive.
Count 24,25,26 : £50 or 2 weeks' Youth Detention in default of payment.
Count 9 : £150 fine or 1 month's Youth Detention in default of payment.

(The above default sentences to run concurrently with each other and with all other sentences).

(See Jersey Unreported Judgment of 25th November, 1994).

On 16th February, 1995, the Superior Number, exercising appellate jurisdiction, allowed the accused's appeal against the sentence of 8 months' Youth Detention imposed on 25th November, 1994, quashed the sentence, and substituted therefor a 2 year Probation Order.

On 29th November, 1995, the accused appeared in the Magistrate's Court charged with 1) taking and driving away a motor vehicle without the owner's consent; 2) driving a motor vehicle having consumed excess alcohol; 3) no insurance; 4) no L plates; 5) driving whilst unsupervised by a qualified person; 6) failed to report RTA; 7) larceny by finding; 8) possession of a controlled drug, namely cannabis; 9) possessed utensils for the purpose of committing an offence against the Misuse of Drugs (Jersey) Law; 10) being the occupier, knowingly permitted the use of a controlled drug on his premises; and 11) received, hidden or withheld audio equipment total value £455; and was placed on probation for 3 years to run concurrently with the Probation Order imposed by the Superior Number on 16th February, 1995.

Age: 19.

Details of Offence:

Placed on probation by Superior Number (on appeal) in respect of large number of offences. Breached probation by committing two separate series of offences in respect of which defendant was placed on probation for 3 years by the Police Court Magistrate. That breach was referred to the Inferior Number.

Details of Mitigation:

Showing some signs of responding to work of probation service. Obtained full time employment following period on Youth Training Initiative. Good reference from employer.

Previous Convictions:

Numerous. Mostly involving motor vehicles but some drug/drink related and offences of dishonesty.

Conclusions:

Continuation of existing Probation Order with addition of condition that he attends Offending Behaviour Group.

Sentence and Observations of the Court:

Conclusions granted but after some anxious consideration.

A.R. Binnington, Esq., Crown Advocate.
Advocate R.G.S. Fielding for the accused.

JUDGMENT

5 THE BAILIFF: McLean, when the Superior Number sentenced you in February last year, I said on behalf of the Court to you, if you remember, *"if you fail to be of good behaviour you will be liable to be brought back before this Court and sentenced again for these offences. We hope that will not be the case and that this will be the last this Court sees of you"*.

10 This, unfortunately, has not come to pass and you have come back before this Court having twice broken the Order which the Court imposed in February, 1995. The Court has been giving very careful consideration to the question whether it can continue the Probation Order which it imposed, or whether it should, in fact, order you to serve a sentence of Youth Detention.

15 The Court has been persuaded, eventually, particularly because of the reference from your employer which has been placed before us, and because of the things which your counsel has said on your behalf, that it can, exceptionally, continue the Probation Order on this occasion. However, I want to make it perfectly
20 plain to you that if you do breach the order again and come back before this Court, it is very unlikely that the Court is going to do other than impose a custodial sentence. The Court does not want to do that, but it expects you to behave, to choose your company very carefully, and not to come back before this Court
25 again.

We therefore order that the Probation Order continue as asked for by the Crown Advocate and we attach a condition to it that you
30 attend the Offending Behaviour Group as and when required by your Probation Officer.

No Authorities.