

. page

ROYAL COURT
(Samedi Division)

229,
2nd December, 1996

Before: F.C. Hamon, Esq., Deputy Bailiff, and
Jurats Vibert and Potter

The Attorney General

- v -

John Gary Johnstone

- 1 count of using a motor vehicle uninsured against third party risks, contrary to Article 2 of the Motor Traffic (Third Party Insurance) (Jersey) Law, 1948 (count 1).
- 1 count of driving away a motor vehicle without a licence, contrary to Article 3 of the Road Traffic (Jersey) Law, 1956 (count 2).
- 1 count of making a false statement for the purpose of obtaining the use of a hire car, contrary to Article 20 of the Hire Cars (Jersey) Law, 1964 (count 3).
- 8 counts of larceny (counts 4, 5, 6, 7, 8, 9, 10, 11).

Age: 28.

Plea: Guilty.

Details of Offences:

Counts 1 & 2: offences took place over a period of one week.

Counts 4-10 (Larceny): the defendant stole clothing and accessories from seven separate establishments to a total value of £661.10. All the offences occurred on the same day. The defendant admitted stealing items to order.

Count 11 (Larceny by finding): the defendant picked up a set of designer sunglasses at the value of £94.00 after he had seen them being dropped by one of a group of four men who were running from the scene of a smash and grab at an optician's shop.

Details of Mitigation:

The defendant was co-operative at the third question and answer interview made on the day following his arrest when he made full admissions in relation to all the offences.

Previous Convictions:

One minor conviction for dishonesty in 1987 when defendant was aged 19 but treated by the Crown as a first offender in relation to the larceny counts. One for driving with excess alcohol and without third party insurance in May 1996. Second offence of driving whilst uninsured.

Conclusions:

Count 1 : 1 month's imprisonment to follow other sentences consecutively.

Count 2 : £50 fine or 7 days' imprisonment in default of payment.

Count 3 : £30 fine or 7 days' imprisonment in default of payment.

Count 4 : 9 months' imprisonment.

Count 5 : 9 months' imprisonment.

Count 6 : 9 months' imprisonment.

Count 7 : 9 months' imprisonment.

Count 8 : 9 months' imprisonment.

Count 9 : 9 months' imprisonment.

Count 10 : 9 months' imprisonment.

Count 11 : 9 months' imprisonment.

The sentences imposed on counts 4-11 to run concurrently with each other, but to follow consecutively that imposed on count 1; default sentences to follow each other consecutively if need be.

TOTAL: 10 months' imprisonment; £80 fine or 14 days' imprisonment, if need be.

Sentence and Observations of the Court:

Conclusions granted, except that default sentences to run concurrently if need be. Driving whilst uninsured a serious offence particularly as it occurred within 3 months of defendant's disqualification by the Liverpool Magistrates' Court in May, 1996. The Court would wish to deter shoplifters.

P. Matthews, Esq., Crown Advocate.
Advocate J.D. Melia for the accused.

JUDGMENT

5 THE DEPUTY BAILIFF: The accused is charged with a series of thefts from shops in town, and with motoring offences, including driving a vehicle without a licence and using a motor vehicle whilst it was uninsured. We regard that particular offence as particularly serious. It is made so by the fact that Johnstone was driving a hire car less than three months after he had been disqualified from holding or obtaining a licence for a period of twelve months by the Liverpool Magistrates' Court. It took two question and answer interviews at the Police Station before he was prepared to admit to the larcenies from the shops; he was clearly stealing to order, meeting his customers in town pubs. Apparently he had only been engaged in this venture for a week; he had only been in the Island for a matter of some eight months.

15 We find it disturbing that he failed to keep appointments with the Probation Office and Miss Melia has explained that he had moved address and so probably did not receive the letters which were sent to him, but we find the matter disturbing remembering that when we granted him bail we specifically advised him to make contact with the Probation Office and to notify them of his address. The result is that we do not have the benefit of a probation report.

20

Miss Melia, if we may say so, has said everything that she could say on her client's behalf. Our problem is that we do not feel that we can give a signal to shoplifters that if they are caught they will be dealt with leniently and so to make the risk worthwhile. Johnstone, will you stand up, please. In the circumstances on count 1, you are sentenced to 1 month's imprisonment; on count 2, you are fined the sum of £50 or 7 days' imprisonment in default of payment; on count 3, you are fined the sum of £30 or 7 days' imprisonment in default of payment; on counts 4-11, you are sentenced to 9 months' imprisonment to run concurrently with each other, but to follow consecutively that imposed on count 1.

Authorities

Bailey (1994) 15 Cr.App.R.(S) 277.

AG -v- Jones (12th October, 1988) Jersey Unreported.

Whelan: "Aspects of Sentencing in the Superior Courts of Jersey":
p.54.

AG -v- Milne (26th October, 1992) Jersey Unreported.