

27th August, 1985.

A.G. -v- Tina Louise Bradbury

Superior Number

Appeal against sentence of 6 months imprisonment for shop-lifting imposed on breach of Probation Order.

DEPUTY BAILIFF: "I start by referring to the words of Lord Justice Lawton in the Anderson case to which reference is made by both Counsel. On page 867 of the Law Report, the learned Lord Justice says this:

"There are various opinions about sentencing for shoplifting. There are some who go so far as to regard it as a very venial offence and take the view that the courts ought not to pay much attention to it; and some of those who are of this view ought to know better. The Court wishes to say that shoplifting is a serious crime, and should be regarded as such. It is only too obvious that it is a crime which is increasing". I stop there. I do not know whether it is increasing in Jersey or not but we can take notice that there is some certainly going on almost all the time and I continue now: "It is also only too obvious that shopkeepers have to cover themselves against their losses caused by shoplifting and the only way they can do that is by increasing prices, so in the end all of us pay for the shoplifting which goes on. If the courts adopt the attitude, as some suggest they should, that the law should be suspended so far as shoplifters are concerned if they have large families, are unemployed, elderly or in poor health, there will be a great encouragement to crime. The law cannot be suspended for these people. It has to be applied. This Court says nothing to discourage magistrates and judges from dealing leniently and mercifully with people who come before them for shoplifting the first time but when, as in this case, there is repetition time and time again over a period of years, then this Court is of the firm opinion that the sentencing court ought to consider and impose a custodial sentence unless there are unusually compelling circumstances against such a course".

Well those words of the Court of Criminal Appeal, in a different jurisdiction it is quite true, find an echo in the thoughts of this Court as the Appellant. Court in this jurisdiction and I read them and adopt them for our own. Now in this particular case, the appellant was sentenced to a period of probation and she failed lamentably to conform to the written undertakings which she had given. She came to Jersey using a false name and there is no doubt in our mind that there are not exceptional circumstances which would have entitled the Inferior Number not to have imposed a custodial

sentence. On the other hand, there is something in what Mr. Thacker has said, that from the wording of the judgment of the learned Lieutenant Bailiff where he used the words "that her behaviour was tantamount to contempt", was in fact something which might have led the sentencing Court to the belief that her behaviour following the imposition of the Probation Order and her coming to Jersey in the way she did, was something which in itself merited a consideration for a custodial sentence and they were led into that, we think, by the wording of the Solicitor General, who himself used those very words, that her behaviour was tantamount to contempt of the Court. Therefore in our mind there is something in what Mr. Thacker has said that the sentencing Court may have taken matters into account which strictly speaking, it ought not to have done although we can clearly understand their dislike of the behaviour of the appellant, which was not in the slightest meritorious and certainly merited some remarks about it. It certainly merited censure and she did nothing to help herself and it is for this reason that when we retired we felt unable to follow a possibility which had crossed our mind that we could reduce the sentence, allow her to go free today but at the same impose in respect of one of the counts, a new Probation Order. We are satisfied that her reaction to the earlier order, as evidenced by Mr. Stevenson this morning and the actual report which was submitted by the Chief Probation Officer which led to her being represented before the Court is such that we could not hope for a success in that line. She has shown herself unwilling to take advantage of the chances which the Court in the past had imposed on her. Having said all that, we have come to the conclusion that because of the possible element of the matters raised by Mr. Thacker in his submissions, that it would be right at the same time continuing the policy of imposing a custodial sentence to make a reduction in the sentence and we accordingly allow the appeal in part and quash the sentence of 6 months and substitute one of 4 months. Legal aid costs.