

ROYAL COURT

25th July, 1988

Before: The Bailiff and
Jurats Blampied, Baker, Orchard and Gruchy

Her Majesty's Attorney General

- v -

David Aubert

One count of grave and
criminal assault

Advocate C.E. Whelan for the Crown

Advocate A.P. Begg for D. Aubert

JUDGMENT

BAILIFF: (indistinct) cases of this sort which are commonly called "glassing". That is to say, somebody breaks a glass or a similar kind of vessel and uses the jagged edge to attack someone and to inflict considerable injuries upon the victim. Looking at the English cases, there is no doubt that the 'bench mark' is about three years at least; not less than that. Looking at the Jersey cases, we think that we should take this opportunity to say that in our view there isn't much distinction between the English and the Jersey cases, or at least there is not enough of a distinction to enable us to say that the 'bench mark' so far as the Jersey cases are concerned should not be some three years. We have said that so that there is no doubt in the minds

of counsel as to what the Court regards as principle.

Turning to this case, we were invited by Mr Begg to say that the tariff sentence was two years or eighteen months, in other words, different from the 'bench mark' in England. That we do not accept. He further invited us to apply in this particular case an individualised sentence and to impose a sentence of probation, coupled with a period of community service. It was put to us that the accused should have a last chance and that if he were given a last chance he would make the most of it because he had now met a lady (who had written a very careful letter which we have read and considered) and that he had therefore changed his way of life.

We cannot overlook the fact that whilst he was on bail charged with this very serious offence, he committed a further offence. This is something which is indicative of his attitude towards society. We have taken into account his deprived background but we cannot think that a case of this nature, which was in our view a very vicious and murderous attack, merits other than (indistinct) sentence. Because we have found that the 'bench mark' here is three years, we think that for the Crown to add a further six months is not excessive. Therefore, the conclusions are granted and you are sentenced to three years and six months' imprisonment.

Authorities referred to:-

- Thomas' Current Sentencing Practice p.2097 - B2-2.2 - Wounding with intent
- Court of Appeal Practice
p.2098 - B2-2.2 R. -v- Harwood (1979) 1 Cr. App. R.(S)
p.2103 et seq - B2-2.3 - Attacks with bottles, glasses, etc. - R. -v-
Lewis (1980) 2 Cr. App. (S) 62
p.2105-B2-2.3 - R. -v- Cole (1983) 5 Cr. App. (S) 218
- Thomas' Principles of Sentencing (2nd edition) p.93 et seq re. "Wounding or
causing grievous bodily harm with intent".
- A.G. -v- Murphy J.J. 4th February, 1983 - unreported
A.G. -v- Fraser J.J. 20th February, 1987 - as yet unreported
A.G. -v- Mandel J.J. 22nd December, 1987 - as yet unreported
A.G. -v- McDonald J.J. 25th January, 1983 - unreported
A.G. -v- Cobbold J.J. 10th May, 1983 - unreported
A.G. -v- Langford 1985-86 J.L.R. Part 1 - N6
A.G. -v- Gibaut 1985-86 J.L.R. Part 1 - N7
A.G. -v- Nozedar 1985-86 J.L.R. Part 2 - N5
A.G. -v- Gorka J.J. 29th August, 1986 - unreported
A.G. -v- Hesketh J.J. 27th May, 1988 - as yet unreported
A.G. -v- Jegouzo J.J. 13th May, 1977 - unreported
A.G. -v- Bizouarn J.J. 17th June, 1977 - unreported
A.G. -v- McLafferty J.J. 8th July 1977 - unreported
A.G. -v- Clark J.J. 16th September, 1977 - unreported
A.G. -v- Weeks J.J. 5th May, 1978 - unreported
A.G. -v- Rooney J.J. 19th May, 1978 - unreported
A.G. -v- Thomas J.J. 2nd June, 1978 - unreported
A.G. -v- Luis J.J. 13th October, 1978 - unreported
A.G. -v- Cowley J.J. 21st June, 1979 - unreported
A.G. -v- Prigent J.J. 12th October, 1979 - unreported
A.G. -v- Tannetta J.J. 5th August, 1980 - unreported
A.G. -v- Huson J.J. 24th March, 1981 - unreported
A.G. -v- Pallot J.J. 19th February, 1982 - unreported
A.G. -v- Graham J.J. 23rd March, 1984 - unreported
A.G. -v- McPhee J.J. 1st March, 1985 - unreported

A.G. -v- Fawcett J.J. 3rd July, 1986 - unreported
A.G. -v- Brooke J.J. 3rd July, 1986 - unreported
A.G. -v- Hughes J.J. 15th May, 1987 - as yet unreported
A.G. -v- Barnes J.J. 26th May, 1988 - as yet unreported
A.G. -v- Smith J.J. 9th September, 1977 - unreported
A.G. -v- Behan J.J. 30th March, 1984 - unreported
A.G. -v- Fossey J.J. 14th November, 1986 - unreported
A.G. -v- Aubin J.J. 21st November, 1986 - unreported
A.G. -v- Hinds J.J. 28th January, 1988 - as yet unreported
A.G. -v- Robson J.J. 28th January, 1988 - as yet unreported
A.G. -v- Cassin J.J. 17th June, 1988 - as yet unreported