

ROYAL COURT

26th June, 1989

Before: The Bailiff and  
Jurats Blampied and Bonn

---

Police Court Appeal: Fraser Iain Munro

---

Appeal against convictions by the  
Police Court on charges of assault  
and possession of an offensive weapon  
contrary to Article 27(1) of the  
Firearms (Jersey) Law, 1956

---

Advocate S.C. Nicolle for the Crown  
Advocate M. St. J. O'Connell for the appellant.

---

**JUDGMENT**

THE BAILIFF: We can well understand the problems of barmen and doormen in a popular discothèque, where there are many young people and much noise and mixing together. They obviously have a difficult time to ensure that the licensing law is observed. If there is somebody who is misbehaving and drunk in the way Laurent was, we can find nothing wrong in their deciding to remove that person, as they did in the case of Laurent. The question is whether, in the heat of the moment, the appellant used too much force to do so. It is perfectly true that one witness, a Mrs. Manners, thought that there was a fight going on and that Laurent was being dragged. Another witness

was disgusted. On the other hand, the perception of what is disgusting and whether someone is being dragged from a discothèque is very difficult to measure.

We have come to the conclusion that excessive force was not used. In our mind there was insufficient evidence for the learned Magistrate to come to the conclusion that he did and, so far as the conviction regarding assault is concerned, that is quashed.

However, when we turn to the question of the conviction for possession of an offensive weapon, we cannot say that the Magistrate was wrong in his conclusions. He sized up the matter extremely carefully and succinctly. The appellant was behind the bar and he saw his friend being, as he thought, attacked. He leapt over the bar and went to his rescue. In the end, of course, he did not use the weapon, but it was used to the extent that it was brandished. Several witnesses saw a weapon being used in the sense of being brandished, but they could not identify who was doing what with it and there is certainly no evidence that the appellant used it as a weapon on Laurent. Nevertheless, we are satisfied that Weir was not - looking at the transcript of his evidence - in such imminent danger as was urged by Mr. O'Connell and we agree with the Magistrate that people cannot arm themselves with what could be weapons and take them in case they need to use them unless there are exceptional circumstances. We do not think that those exceptional circumstances applied here. In the circumstances, the appeal against the second limb - that is to say possession of an offensive weapon - fails. As regards costs, we think it right, Mr. O'Connell, that your client should have one half of his costs, having succeeded in half of his appeal.

Authority referred to:

Archbold (43rd edition) Volume 2, at pp. 1915, 1916, 1918 and 1920.